EXHIBIT H

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF NEW JERSEY

POWER SURVEY, LLC.,

Plaintiff,

v.

PREMIER UTILITY SERVICES, LLC., and L-3 COMMUNICATIONS CORPORATION d/b/a/ NARDA SAFETY TEST SOLUTIONS

Defendants.

Civil Action No. 2:13-cv-05670-FSH-MAH

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VIDEOTAPED DEPOSITION OF DAVID KALOKITIS

Friday, April 18, 2014

Washington, D.C.

Reported by: Lori J. Goodin, RPR, CLR, CRR

April 18, 2014
9:32 a.m.

VIDEOTAPED DEPOSITION OF DAVID KALOKITIS, held at the offices of:

Sterne Kessler Goldstein Fox
1100 New York Avenue, Northwest
Washington, D.C. 20005

pursuant to notice before Lori J. Goodin, Registered Professional Reporter, Certified LiveNote Reporter, Certified Realtime Reporter, and Notary Public in and for the District of Columbia.

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PROCEEDINGS

THE VIDEOGRAPHER: We are on the record. The time now is 9:32. This marks the beginning of Disk Number 1 for the videotaped deposition testimony of David Kalokitis, in the matter of Power Survey, LLC, versus Premier Utility Services, LLC, et al. This deposition is being conducted at 1100 New York Avenue Northwest, Washington, D.C.

Will all attorneys present please identify themselves and who they represent.

MR. GOETTLE: Dan Goettle of BakerHostetler for the defendant Narda.

MR. EVENS: Mark Evens for defendant, ah, yeah, for plaintiff, Power Survey and with me is Michael Ray and Nirav Desai.

VIDEOGRAPHER: My name is Michael Gay. I am with Golkow Technologies. Our court reporter today is Lori Goodin, also with Golkow Technologies and will now swear in our witness.

DAVID KALOKITIS,

a witness called for examination, having been first duly sworn, was examined and testified as follows:

EXAMINATION BY COUNSEL FOR DEFENDANT NARDA

BY MR. GOETTLE:

Q. Morning Mr. Kalokitis.

A. Good morning.

Q. How are you?

A. Good.

Q. Have you been deposed before?

A. I have not.

Q. Okay. So, you probably are aware, but I'm going to ask you some questions, and I would ask you to answer them, unless your attorneys instruct you not to.

A. Okay.

Q. If you don't understand my question, please just ask me to clarify. I'm happy to do that. I want to get a really clear record and I want to make sure that you and I have a meeting of the minds in terms of what I am asking, and what you are answering, is that okay?

A. Okay.

Q. Would it be safe to assume if you

don't ask me to clarify my question that you understand the question as I have asked it?

A. Yes.

Q. Any reason today you can't testify truthfully?

A. No.

Q. Any reason today that you can't testify completely?

A. No.

Q. Okay. So, as I go through today if you want to take a break for any reason at all you can just give me the sign and we can take a break, okay?

A. Okay.

Q. The only caveat to that is I would ask that if I have a question pending that you answer the question before we take the break. Okay?

A. Okay.

Q. Okay. And today, so, I have, just so you know what I'm doing, on my screen here I have my outline just so I can keep my thoughts clear which will help us get through this a little bit quicker, okay?

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A. Okay.
Q. And then I have a box of documents back here, I have never used my entire box of documents in any deposition, so I don't anticipate we will be flipping through every one of those documents, okay?
A. Okay.
Q. And then I'm going to be giving you documents as we go today. If you want to take your time and review them before I start asking you questions, you just start reviewing and I will take from your body language that you want to review and I will wait. Okay?
A. Okay.
Q. In terms of the road maps so you can kind of see how we are progressing today, I will give you kind of a general understanding of where I'm going, okay?
A. Okay.
Q. First I'm going to do some introductory stuff which is what I'm almost done.
I want to then get into your background, your educational and professional experience.

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A. Okay.
Q. And then I'm going to talk to you about the inventions of the asserted patents, okay?
A. Yes.
Q. And I want to get the story behind those inventions, where they came from that kind of thing.
And then I want to talk to you about the inventors and their role in the inventions of the patent.
A. Okay.
Q. And then I want to talk to you about what some of the patent claims mean in terms of how they are, how they are implemented in Power Survey's system, in your system, okay?
A. Okay.
Q. And then we will talk about Narda's system. And then I would like to talk a little bit about some prior art issues, although I don't think we are going to get into prior art today.
A. Okay.
Q. We might, but I don't know.
A. Okay.

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Q. So that is kind of like the overarching theme for today.
The last before we get into the fun stuff, your background. Today I'm not anticipating in getting into any Power Survey confidential information. Okay?
A. Okay.
Q. And my, it might be that we end up there, so be it, but my goal would be to not elicit a response from you that is going to divulge confidential information. Okay?
A. Okay.
Q. So, I understand it might be hard to remember while we are going and I get it, but, if to the extent that you can remember, and tell me before you answer, that, the answer you are about to give is Power Survey confidential information, would you let me know?
A. Yes.
Q. Okay. Thank you. Okay. So let's start with your education. Can you describe your educational path post high school?
A. Yes. Four-year degree, Bachelor of Science in Electrical Engineering from Trenton

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State College in 1983.
I started working at Sarnoff Corporation in 1983. While attending Sarnoff, I went to Monmouth University and got a Master of Science in Electrical Engineering, graduated in 1990.
Q. So, in your time getting your B.S. of Electrical Engineering, did you take computer courses?
A. Yes.
Q. What were they?
A. Computer languages.
Q. Sure. That would be great.
A. Courses in FORTRAN, courses in assembler languages, and computer, some computer architecture, computer networks.
Q. In 1983, what did you learn about computer networks?
A. The computer networks courses were part of my master's degree.
Q. Okay. So that was more closer than the 1990 time frame?
A. In the, yes, in that zone.
Q. Okay. So, as an undergrad you had a

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little bit in FORTRAN, assembler and a little bit of computer architecture; is that right?
A. In school, yes.
Q. And then getting your master's you dived a little more into computer networking?
A. A little bit.
Q. Did you learn how to perform programming, computer programming?
A. Yes.
Q. In FORTRAN?
A. Yes.
Q. And in assembler languages?
A. Yes.
Q. Did you do any object oriented programming?
A. Not at that time.
Q. Not at that time. How about with the master's, object oriented programming?
A. Not at that time.
Q. Okay. So you have done that in terms of your work at Sarnoff or at Power Survey?
A. I had some experience with that at Sarnoff.
Q. I see. Can you read computer code?

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A. Somewhat. I am not a computer expert.
Q. Uh-huh. But somewhat you can read it?
A. Somewhat.
Q. Did you do any of the programming on Power Survey's system?
A. No.
Q. So, you got your degree at Monmouth while working at Sarnoff?
A. Yes.
Q. So, you went and did that at night?
A. Yes.
Q. How long did that take you?
A. Four years.
Q. Four years. Was that fun going to work all day and then going to school at night?
A. Yes.
Q. That is good. Okay. So let's talk about your work at Sarnoff. I take it, then, your, in terms of your professional employer progression, you started at Sarnoff and left Sarnoff to go to Power Survey?
A. Yes.

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Q. And no breaks in between? You were at Sarnoff that entire 24, 25-year period?
A. Yes.
Q. So, when you started at Sarnoff in 1984 --
A. '83.
Q. '83. What were your job responsibilities?
A. I was a senior technical associate and I worked in the microwave group, designing, building, testing microwave antennas, circuits and the like.
Q. Did that work in the microwave group involve any digital signal processing?
A. At what time?
Q. In the 1983 time frame when you started as a senior technical associate in the microwave group, did your work involve digital signal processing?
A. No.
Q. And how long were you, do I have the term right, senior technical associate?
A. Yes.
Q. How long were you a senior technical

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associate in the microwave group?
A. A few years.
Q. And during that time you worked primarily on antennas and circuits as they relate to microwave technology?
A. Yes.
Q. Okay.
So, after those few years, what did you do next at Sarnoff?
A. I continued in the microwave group; I worked on, continued to work in those areas. I worked on automated testing equipment, setting up automated equipment that was computer-controlled to perform measurements on microwave circuits.
Q. And I take it at some point after you were a senior technical associate you got a promotion in the microwave group?
A. Yes.
Q. What was your title with the first promotion?
A. Associate member of the technical staff.
Q. Associate member of the technical staff?

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A. Technical staff.
Q. And that was a few years later so that was probably '86, '87 time frame?
A. I don't recall exactly.
Q. Okay. How many employees were in the microwave group when you joined there in '83?
A. Approximately 100.
Q. Wow. So, we are not talking about microwave ovens I take it?
A. No.
Q. And then when you got promoted to associate member of the technical staff, how many folks were in the microwave group?
A. Approximately 100. Same.
Q. These microwave circuits that you helped develop automated testing of, what are they used in? What were they used in?
A. Microwave communications systems.
Q. Can you give me an example?
A. Satellite communications. Radar.
Q. And I take it that Sarnoff had customers for the automated testing equipment?
A. No.
Q. No. What did Sarnoff do with the

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equipment that it was developing?
A. We weren't developing equipment for customers, we weren't developing test equipment for customers.
Q. I see. What was Sarnoff using the test equipment for?
A. To test the microwave circuits that we were developing for customers.
Q. I see. So you developed microwave circuits for customers and when while you were the associate member of the technical staff, you worked on developing automated testing equipment for the microwave circuits?
A. Yes.
Q. I see. And then Sarnoff sold the microwave circuits to customers?
A. It was an R&D facility, so the contracts varied in what their deliverables were. It is hard to say exactly what, you know, we were not selling microwave circuits out of a catalogue.
Q. I see. So, the, Sarnoff was hired for want of a better word to develop the microwave circuits?

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A. Yes.
Q. And whether they sold the circuits or not they probably at least gave the technology on how to design these circuits to the customers or contractors?
A. Deliverables varied, but technology development was a big component of Sarnoff's business.
Q. Okay. At that time when you were an associate member of the technical staff, did you do digital signal processing then?
A. No.
Q. So, how long did you do that work as an associate member of the technical staff in the microwave group?
A. A few years.
Q. A few years. And then what was next?
A. I was eventually promoted to member of the technical staff.
Q. Do you recall when that was?
A. Approximately 1993.
Q. And with that promotion in 1993, did your job duties change?

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A. Not specifically. It was an R&D facility, so it was a lot of matrix to, you know, to people's responsibilities. You would work on projects as needed and it wasn't, it wasn't a silo, you know, of work.
Q. I understand. So, at that time were you still working on developing the automated testing equipment, or did, was there a shift in focus?
A. I worked on many different things. I worked on GPS denied navigation.
Q. I missed that?
A. GPS denied navigation.
Q. What does the "denied" mean in the GPS denied navigation?
A. Do you know how to navigate with GPS?
Q. I do.
A. Do you know how to navigate without it?
Q. I do.
A. You do? Electronically?
Q. I was in the Coast Guard and GPS was not a big thing that we used. We used a lot of

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LORAN-C.
A. Okay. So, if you want to navigate inside a building, and you can't see a satellite, that would be an application, a GPS denied navigation.
Q. So, I see. So denied means you are not using GPS?
A. Yes.
Q. So, what technique would you use if you didn't have GPS?
A. We would use various microwave signal propagation, signal processing, techniques to recognize where a person, you know, who is carrying some equipment, to recognize their location.
Q. I see.
A. Transponders.
Q. I see. And what was your role in that project?
A. I was a lead engineer on some of those projects.
Q. So, you kind of hinted that there was, there were items you were working on at the time other than GPS denied navigation. What were

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they?
A. Microwave superconductivity.
Q. Anything else?
A. I don't think so.
Q. Did the work on GPS, by the way is microwave superconductivity different than GPS denied navigation?
A. Yes.
Q. Okay. Did your work on GPS denied navigation involve digital signal processing?
A. Yes.
Q. And were you involved in the digital signal processing?
A. In what way?
Q. In any way with respect to the GPS denied navigation?
A. Yes.
Q. You personally?
A. Yes.
Q. Okay. How about with the microwave superconductivity?
A. No.
Q. By the way when I use the term digital signal processing, what does that mean to

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you?
MR. EVENS: I'm going to object to the form of the question. But go on and answer.
THE WITNESS: Digital signal processing is when you take a signal from the analog domain and you digitize it and perform some manipulations on it.
BY MR. GOETTLE:
Q. You digitize it. I didn't hear the last part?
A. You digitize it and perform some manipulations in the digital data.
Q. And how is the analog signal digitized using digital signal processing?
A. In what application?
Q. In, like, what are all, I just want to know, like what are all of the ways, different ways, no matter the application of digitizing an analog signal?
A. An analog to digital converter is a routine component for that application.
Q. So that is a device or a chip that performs the digitizing?

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A. Yes.
Q. How do those chips perform the digitizing?
A. I'm not an analog to digital converter designer.
Q. I see. But I mean you are aware that one way to digitize an analog signal is to sample it as a matter of time, right?
A. Yes.
Q. Okay. Is there any other way to digitize an analog signal?
A. I don't know.
Q. So, digitizing by sampling as a matter of time is the only way that you know of to digitize an analog signal?
A. I've heard other terminology in the area of signal capture. But, I don't have specifics.
Q. Okay. So, can you tell me what microwave superconductivity is?
A. There was a class of materials developed in the, maybe, early '90s, that were called high temperature superconductors. And I designed circuits and evaluated the performance

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of those materials at microwave frequencies.
Q. Okay. We're up to you being a member of the technical staff.
A. Yes.
Q. Promoted to that position in 1993.
A. Yes.
Q. What was next?
A. I worked on radar.
Q. When did that work start?
A. Late '90s.
Q. Late '90s. In between 1993 and the late '90s, was that seven-year or so time period, during that seven-year or so time period, you were still a member of the technical staff?
A. Yes.
Q. And that was still within the microwave group?
A. Yes.
Q. Okay. And then when the work in the late '90s began on the radar was that still in the microwave group?
A. Yes.
Q. And were you, at that point still a member of the technical staff?

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A. Yes.
Q. And what did your work on radar entail?
A. In what regard?
Q. In any regard. What was your involvement with radar?
A. I worked on Doppler speed sensors.
Q. And that would be a piece of a radar, Doppler speed sensor?
A. That is a sensor system that measures speed.
Q. It would be measuring the speed of something that is out there that has been detected using the radar?
A. That is an application.
Q. There are other applications?
A. There are many.
Q. What are, can you just give me some, so I can get a better understanding?
A. Measure the speed of a pitch.
Q. Speed of a pitch?
A. Ball game, baseball.
Q. Cool. Speed of a car?
A. Speed of a car.

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Q. How long, after the late 1990s did you continue working on radar?
A. It was a few year span of the radar work.
Q. You don't recall when?
A. I don't recall.
Q. Okay. So what came after radar?
A. I worked on direct broadcast satellite.
Q. This is after your work on radar?
A. Similar time frames. I don't recall the time frames. It was a long career.
Q. So, what is direct broadcast satellite?
A. Dish Network, DirecTV.
Q. I still use cable. So, what did your work on direct broadcast satellite entail?
A. Designing microwave circuits.
Q. So this is all still part of the microwave group?
A. Yes.
Q. And at that time this time are you still a member of technical staff?
A. Yes.

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Q. Okay. And when did that, how long did you do that work for, direct broadcast satellite work?
A. A few years.
Q. So, we are into the early 2000s at this point.
A. Okay.
Q. Is that right?
A. Sounds right.
Q. Okay. Still, about 100 members in the microwave group?
A. Probably smaller at that point.
Q. 80? Too hard to say?
A. Too hard to say.
Q. Okay. So, at that time when you were doing the work on the direct broadcast satellite in the microwave group, how many other groups were at Sarnoff?
A. I don't recall.
Q. Under ten?
A. Probably more.
Q. More than ten. Okay. You think there would be more than 15?
A. Define group.

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Q. Well, you used the term microwave group. So, I don't know how to define it except that there was a group of microwave folks.
A. It would be an exercise to explain the matrix.
Q. Is that right?
A. The matrix and the structure as it evolved over the years at Sarnoff.
Q. Okay. Do you have a sense at that time when you were the working on direct broadcast satellite how many employees, approximately, how big Sarnoff was?
A. I would say under 1,000.
Q. Under 1,000. And geographically where would those 1,000 people have come to work? All in New Jersey?
A. No.
Q. Where would they work?
A. There were other offices Sarnoff had. I don't recall the locations. But there were outposts.
Q. Was New Jersey the place where most, where the most Sarnoff employees were?
A. Yes.

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Q. Okay. So, after direct broadcast satellite work, what was next?
A. My work was project oriented, not necessarily in a silo. So, an example project would be synchronizing substations, electric company substations, synchronizing substations.
Q. And whether you were doing that work you were still part of the microwave group?
A. Yes.
Q. Okay. And do you recall when that work was?
A. Early 2000s.
Q. Okay. So, I guess maybe to bring it to a head, in between that work or your work on the direct broadcast satellite and your work that led to the inventions in the patent, what did you do in that time period?
A. Repeat that question.
Q. So, from your Declaration I understand that the, your work on stray voltage detection began somewhere in 2004/2005 time frame.
A. Yes.
Q. Okay. So, taking that as the end

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point, and taking direct broadcast satellite work as the beginning, in between, what other work did you do aside from the work on synchronizing electric company substations?
A. I did work on communications, digital communications for utility, utility network equipment. Electric network equipment.
Q. Okay. Could you pretend I'm like a 10th grader and explain what that means?
A. A utility has control systems to control the electric flows, right. And monitor the flow of electricity.
Q. Okay.
A. And adjust the flow of electricity. And that equipment is and can be controlled remotely, and it can be and is sometimes controlled using cellular communications. So I worked on some of that technology.
Q. I see. Anything else you can recall in that time period?
A. Nothing, nothing jumps out at me.
Q. Okay. And then we get in, and then we evolve into the work that led to the patents in suit, right?

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A. Yes.
Q. When you got in, got to that point at Sarnoff and working on that project of stray voltage detection, did you continue to do other things at Sarnoff?
A. It depends on the time frame. As a project engineer you try and handle whatever projects are, you know, that you have proposed or want or whatever. So it is hard to say specifically on any day or month or band of months, what I was working on.
Q. So, you weren't exclusively working on the stray voltage detection project?
A. Depends on the time frame.
Q. Well, at any time were you working on things, at the general time frame that you are still developing and working on the prototyping for the stray voltage system or developing the trailer based system, during that time frame, did, is it, do you think you had other projects going on outside of that technology?
A. My main focus was stray voltage technology, when I got started in stray voltage technology.

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Q. I see. Are you an author on any publications?
A. Yes.
Q. All within the field of microwave technology?
A. Yes.
Q. By the way would you place, is this, was the stray voltage work, was that within the microwave group as well?
A. Yes, yes. Yes.
Q. So, everybody that, everybody that worked on that project would have been within your microwave group?
A. No.
Q. Who wouldn't be in that?
A. We had a matrix, an engineering matrix, so, we had a model shop.
Q. I see.
A. For those things.
Q. Yes.
A. And an array of resources.
Q. What did the model shop do?
A. That is where all of the machinists build all of the parts.

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Q. Okay. What, you have mentioned it before. What is an engineering matrix?
A. So, in a silo, right, everybody, if your microwave group was your silo, you would need your own, you wanted to build something, you would need the entire team to be on your silo, right.
So, in a matrix you have a mechanical designer section, and maybe you have vision, a vision group that works with image processing. Just, groups that are, are, have expertise in certain design skills.
Q. And would those groups, they could be outside the microwave group?
A. Yes.
Q. I see. Okay. I think I just asked you this, but I can't recall the answer. So have you authored articles in your work at Sarnoff?
A. Yes.
Q. In what fields?
A. In my work at Sarnoff?
Q. Yes, sir.
A. Microwave circuits.
Q. All within microwave circuits?

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A. Are you referring published papers?
Q. Yes.
A. And only published papers?
Q. Yes. For now, let's assume that. Published papers.
A. I might have some things outside of that arena. Actually I do. I published an article on synchronizing power substations.
Q. Can we, okay if we go off the record?
MR. EVENS: Let's go off the record.
THE VIDEOGRAPHER: The time now is 10:08, we are going off the record.
(Recess taken -- 10:08 a.m.)
(After recess -- 10:21 a.m.)
THE VIDEOGRAPHER: The time now is 10:21, we are back on the record.
BY MR. GOETTLE:
Q. Okay. I think when we broke you were just telling me that you had written a published article on synchronizing power substations. Is that right?
A. Yes.
Q. Okay. And you had, you have written

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published articles on microwave circuits.
A. I want to correct the published article on synchronizing substations.
There was an article about that. But, it was published, but I can't remember if I wrote it.
Q. I see.
A. It may have been a trade journal interview. I don't recall.
Q. I think I actually read it. I think that is right, I think it was an interview.
A. Okay.
Q. By the way when we took the break did you discuss any of your testimony that you already gave with your counsel?
A. No.
Q. Did you discuss any testimony that you might give later on today with your counsel?
A. No.
MR. EVENS: Dan, just so we are clear, we are not going to have any discussions. We know the local rules and we are not going to have any discussions with the witness.

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MR. GOETTLE: Okay. Thank you.
BY MR. GOETTLE:
Q. Okay. So, and I guess I'm really, right now we are still in the Sarnoff time frame for your entire period at Sarnoff and talking about your published articles.
A. Yes.
Q. Aside from those two categories, microwave circuits and maybe synchronizing power substations, maybe not, any other published articles?
A. You know, I have a list somewhere of publications. But, to tell you what is on it at this point in time, I really don't recall.
Q. Prior to the 2004 work on the stray voltage project, did you publish any articles on stray voltage?
A. No.
Q. Now let's talk about you. Let's talk about unpublished articles. Have you written unpublished articles?
A. I have given many talks at symposia and conferences. And the associated documents that go with that.

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Q. So it could have conference papers, that kind of thing?
A. Yes.
Q. Are those types of papers, are they kept at Sarnoff's library?
A. Not likely.
Q. How about the published articles, does Sarnoff's library carry those?
A. I don't know what is in Sarnoff's library these days.
Q. Well, how about back then?
A. I don't recall an effort to archive Sarnoff authors in their library.
Q. Okay. So, you left Sarnoff in 2006?
A. Seven.
Q. 2007. And that is when you started co-founded Power Survey?
A. Yes.
Q. And --
A. No. I guess it is a little more complicated than that. So, Power Survey was a division, initially a division of Sarnoff.
Q. Okay. I see. And, that division was created in 2007?

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A. Six.
Q. 2006. And so this would have, and so, and then you went and worked for that division?
A. That is complicated, too. So, business entities and subsidiaries and employment and paychecks, you know, where they come from is not, there is, it is not straightforward.
Q. Fair enough. Let me put it this way. Were you still in the microwave group when you started, when Sarnoff, when Power Survey was created?
A. I was in, I was in the, whatever the current name of the microwave group was in 2006.
Q. I see.
A. Yes, I was in that group.
Q. Okay. So, the microwave group that, the name of the group changed?
A. It had --
Q. Or may have?
A. It may have changed.
Q. Okay. So, Power Survey was created as a subsidiary of Sarnoff in 2006.
A. Yes.

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Q. And in some form or another you started to work within that subsidiary?
A. Yes.
Q. Okay. And then in 2007 Power Survey was, Sarnoff sold this subsidiary?
A. Correct.
Q. And did Sarnoff retain any ownership right in Power Survey?
A. At that time frame?
Q. At that time frame.
A. It is not clear.
Q. Not clear. And again, I go back to my concern about keeping this record nonconfidential.
A. Uh-huh.
Q. But, does Sarnoff, so with that in mind, does Sarnoff have any interest in Power Survey today?
A. Today, no.
Q. To your knowledge does Sarnoff have any financial interest in the outcome of this litigation?
A. No.
Q. Did Sarnoff at any time have an

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ownership interest after it was, after Sarnoff sold Power Survey, I understand from your testimony, that Sarnoff did not have an ownership interest at that time? Or no, you said it was unclear.

A. It was unclear.

Q. Let me strike that because it was, yes, you said it was unclear. Did it ever become clear that Sarnoff did have an ownership interest in Power Survey?

A. Did it ever become clear that Sarnoff did have --

The, the, the acquisition of Power Survey was, had some business aspects to it that, you know, as the technical guy I probably don't have clarity on what they were.

Q. I see.

A. The question about whether there is ownership today, there is not.

Q. Okay.

A. But the transition period is unclear to me what particular things may have gone on, you know, in the early aspects of that.

Q. Okay. The, I will submit to you and

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I can show you if you want. But the first patent in suit issued in July of 2013?

A. Okay.

Q. Since that time frame has Sarnoff had an ownership interest in Power Survey.

A. Since 2013. No.

Q. Okay. So, you are, now you are the chief technology officer of Power Survey, right?

A. Yes.

Q. Have you always been the chief technology officer?

A. Yes.

Q. Okay. And have you held any other positions at Power Survey?

A. No.

Q. And in your role as a chief technology officer, what is your job functions? What are your job functions at Power Survey?

A. To develop our technology. To educate the public, the industry, and government about the hazards of contact and stray voltage.

And to handle any technical processes, technical field processes, you know, what our technicians do in the field, their work

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process.

Q. Uh-huh.

A. Their techniques. Participate in industry professional, you know, IEEE functions. And to provide technical resources to our customers and potential customers.

Q. Are you involved at all in, maybe this is what is under the, under the umbrella of technical processes, but are you involved in training Power Survey employees?

A. Yes.

Q. And are all of the folks out in the trucks with the Power Survey device, are they all employees of Power Survey?

A. Define employee.

Q. Well, as opposed to an independent contractor.

A. Some of our folks are independent contractors.

Q. I see. Do you have a sense of how many folks of those folks that do that work are employees versus independent contractors?

A. It varies.

Q. How so?

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A. It varies depending upon how many jobs we are doing concurrently.

Q. I see. So you will have employees and then as the jobs, volume may increase then you would bring in independent contractors?

A. Yes.

Q. Okay. Do you have a sense of how many employees right now do that job function of driving around in the trucks to detect stray voltage?

A. I don't have an exact number.

Q. Do you have a rough number?

A. Are you asking about field technicians?

Q. Yes, the field technicians being the people that drive around in the trucks to detect the stray voltage.

A. Approximately 20.

Q. 20, okay. Do you have a financial interest in the outcome of this case?

A. How, how do I interpret that?

Q. Well, do you stand financial gain if Power Survey wins this case, and financial loss if Power Survey loses this case?

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A. I would have to understand the -- do I -- I'm trying to think of how that, how that translates into my role with the company. My --

Ask it another way. I'm not quite -- do I personally have financial gain or loss if the company wins or loses the case.

I have, I guess it depends what the outcome, what the ramifications of the win or loss is.

Q. Fair enough. So let me try it a different way. Let's say, for example, if the Power Survey wins this case and in part because of that win their profit margin increases.

Will you stand to gain financially because Power Survey is making more profit?

A. Yes.

Q. How so?

A. My, I guess the company's valuation would be higher.

Q. And how does that translate to you personally?

A. I have some small, small percentage of ownership.

Q. What percentage?

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A. A few percent.

Q. Who else has ownership of Power Survey?

MR. EVENS: I'm not sure if that is business confidential. It might be.

MR. GOETTLE: So --

MR. EVENS: He is not a 30(b)(6). I mean this witness is here as an individual. So I'm not sure what, how this would even be relevant to the issues.

MR. GOETTLE: Well, I don't, putting aside -- just to be clear, I do want to keep the transcript nonconfidential, if that is, if that is the nature of your warning.

MR. EVENS: I understand.

MR. GOETTLE: Then I understand. But if you are instructing him not to answer for some other reason, I would like to know.

MR. EVENS: Well, I am concerned about the relevance of the issue, but particularly from this witness, can you explain why it would be relevant, who else is an owner in the company? I'm not sure if it is public information. Is it public?

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Dave, do you know if the ownership is public at this time?

THE WITNESS: It is a privately held company and there is no public disclosure of ownership.

MR. GOETTLE: So it is confidential information?

THE WITNESS: Yes.

BY MR. GOETTLE:

Q. Thank you. Okay.

I would like to zero in to 2002 and I would like to get an understanding to the best you can recollect what you were doing in 2002 at Sarnoff.

A. To tell you what I was doing in any given year, I, I cannot. I'm not good at putting things in a time frame. I have a reasonable sequence in my mind of the projects I have worked on, but it would not be uncharacteristic for me to have put one in front of the other incorrectly.

And to give you a, a spot on a calendar on what I did in a year would not be within my recollection.

Q. Did you work at all on stray voltage

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detection in 2002?

A. In 2002, stray voltage detection is unlikely.

Q. How about 2003? Did you work on stray voltage detection in 2003?

A. I did not have a stray voltage project in 2003. To my knowledge.

Again, you are talking 11 years ago.

Q. Uh-huh. Right. That is a long time?

A. That is a long time.

Q. Yes. Okay. Well, let me do this. I'm going to hand you what the court reporter has already marked as Kalokitis Numero Uno.

MR. EVENS: I was thinking of some way to help you out there, Dan, on the table. Exhibit 1.

(Kalokitis Exhibit Number 1 marked for identification.)

BY MR. GOETTLE:

Q. You have Kalokitis Number 1 in front of you?

A. I do.

Q. What is it?

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A. What is it? It says Declaration of David Kalokitis In Support of Motion For Preliminary Injunction on the cover.
Q. Do you recognize it?
A. I do.
Q. And, this is your Declaration, correct?
A. It is my Declaration.
Q. And that is your signature on Page 7?
A. Yes, it is.
Q. Okay. When was the last time you saw this Declaration?
A. I looked at it yesterday.
Q. You did. Did you see anything in it that you think warrants correction?
A. I don't recall anything that needs correction.
Q. Okay. You just didn't see any mistakes in it?
A. I don't recall any mistakes in it.
Q. Okay. So I put this in front of you. You feel free to refer to it if you would like to while I am asking you questions.

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What I would like to get into, now, is sort of the background for the invention.
A. Okay.
Q. And when I say the invention I'm referring to the inventions claimed in the three asserted patents.
A. Okay.
Q. Okay. If the you need the patents I'm happy to give them to you. If you need anything I am happy, I have a whole box of documents.
A. Okay.
Q. Hopefully, I thought I have and brought whatever you might want to look at.
A. Okay.
Q. So, tell me about how, I, my understanding is, and correct me if I'm wrong, my understanding is that Sarnoff began development of the stray voltage detection after being contacted by Con Ed.
A. Yes.
Q. Can you tell me about how that contact happened?
A. In 2004, Jody Lane was killed in

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Manhattan by coming in contact with an energized service box.
Following that event Con Edison, who had a longstanding R&D relationship, used Sarnoff as an R&D research entity. Resource.
Con Ed came to Sarnoff and said we have a problem with stray voltage in our system. We don't know how big it is. We don't know how to find it, and we don't know how to solve it. And we need your help.
Q. Were you involved in that initial meeting between Con Ed and Sarnoff?
A. I was involved in the early meetings with Con Edison.
Q. Who was at those meetings?
A. I don't recall. It would be, it would be normal for the representatives of Con Ed's R&D department.
Q. You don't recall any names?
A. No.
Q. Okay. How about from, so, you don't recall any names of any of the Con Ed folks that were at the meeting.
A. Right.

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Q. Do you recall any of the names of the Sarnoff folks that were at the meeting?
A. I don't recall any of the names that were at the meeting.
Q. I know, I have a feeling it is going to be hard to remember when that meeting occurred but maybe in relationship to when Jody Lane was electrocuted, do you have a recollection of weeks or months afterwards?
A. I don't have a recollection of dates, but I know there was an urgency and a timeliness associated with that event.
Q. Okay. So what happened after the initial meetings between Sarnoff and Con Ed?
A. We, we discussed a proposal with Con Edison for R&D services to develop a solution for them being able to find stray voltage in their system.
Q. Do you have that proposal?
A. I don't.
Q. I don't mean with you today, but does Power Survey have that proposal?
A. I don't think so. I, I would imagine that was a Sarnoff, that Sarnoff would,

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it would have been kept with Sarnoff. But, I don't think we have it.
Q. Prior to Jody Lane's electrocution, had Con Ed ever come to Sarnoff and asked for help addressing stray voltage?
A. Yes.
Q. When was that?
A. I would say in the, somewhere between the two years before when Jody Lane was killed and when Jody Lane was killed. But I don't know exactly when.
Q. And do you know anything about that initial contact?
A. The, the problem of stray voltage was described, to some of the engineers, some of us engineers at Sarnoff. And a, we did some early proof of concept work for Con Ed prior to Jody Lane being killed.
Q. Were you involved in that work?
A. Not directly.
Q. Okay. But indirectly?
A. Yes.
Q. So, earlier when I asked you if you had done any stray voltage work prior to 2004 --

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A. Well, by indirectly, by indirectly it was done by, remember I said we were a research resource for Con Ed, so I was working on some microwave antennas for Con Ed, and the fellows that were in my group were working on a handheld stray voltage system.
So, I was not part of that project. But, I, I saw briefings on progress within that.
Q. You saw briefings on the earlier project, prior to Jody Lane being electrocuted, right?
A. Yes.
Q. And you saw those briefings as part of your supervisory role over folks in your group?
A. Are you asking if I supervised the people that worked on that project?
Q. Well, let me step back. I thought before you told me you weren't involved in any stray voltage work before Jody Lane being electrocuted, and now I'm trying to understand whether that statement is an overstatement or --
A. Okay.
Q. It seems like we need to clarify it a little bit.
A. Okay.
Q. So, I'm trying to get the clarity that I want on this record.
A. Okay.
Q. So, what was your involvement with the work to detect stray voltage before Jody Lane was electrocuted?
A. I was not working on stray voltage before Jody Lane was electrocuted.
Q. Okay. Were you involved at all --
A. Maybe the statement indirect was too strong.
Q. Okay. Meaning it was even less than indirect?
A. Yes.
Q. Okay. I got you. Do you recall who from Sarnoff was involved in that early work? And by early work I mean before Jody Lane was electrocuted?
A. What was that guy's name? It was an older engineer that retired. I am at a loss for his name right now. I can picture him, but I can't think of his name.

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Q. Okay. You can't recall anybody's name?
A. I'm not recalling the names of the guys that worked on that.
Q. Do you recall, do you recall the names of anybody from Con Ed involved at that time before Jody Lane had been electrocuted?
A. No.
Q. So, what is your understanding of the work that Sarnoff did at that time before Jody Lane was electrocuted?
A. They built a handheld sensor to, to try and understand what types of signals or, would come off of a structure that is energized with stray voltage.
Q. Did you see the handheld sensor?
A. Yes.
Q. Did you see the handheld sensor in operation?
A. Once, yes.
Q. Can you tell me about that?
A. It was a, a probe connected to an electronics box and it gave some, some alarm when you pointed it at something that was energized.

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Q. So, you saw a demonstration of the testing of this handheld device?
A. I saw it used, yes, I saw it demonstrated, yes.
Q. Were you inside or outside?
A. Outside.
Q. Was there a test track that Sarnoff was using?
A. At that point in time I remember a streetlight that was being, was the target on the Sarnoff grounds.
But, I don't know the details of how that streetlight became a target.
Q. Do you know how the handheld sensor was able to detect an energized streetlight?
A. It was a, it was an analog circuit and it looked at the electric field gradient. Electric field, electric field.
Q. So it sensed the electric field that was associated with the voltage on the streetlight?
A. Yes.
Q. Okay. Now was it detecting the streetlight because the light was on? Or because

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the streetlight pole was energized? Do you recall?
A. I don't recall if the streetlight was on or off. But it was daytime.
Q. So, I take it, then, that the pole was energized?
A. I would expect that was the goal of the demonstration.
Q. Do you have an understanding of how long before Jody Lane was electrocuted that you saw this demonstration?
A. I don't have a sense of that.
Q. You also mentioned that you had saw briefings with respect to that early project prior to Jody Lane being electrocuted; is that right?
A. There were, there were meetings when the Sarnoff people and the Con Edison people came in various groups, reviewed their work for the customer.
Q. And you were a part of those meetings?
A. I don't have specific recollections. It was a group of projects all going on in

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parallel and I don't have a lot of clarity as to what I may or may not have sat through in the course of sometimes all-day meetings.
Q. And, if you had been there, it would have been because you were doing different work for Con Ed at the time?
A. Yes, yes.
Q. I see. So, you don't recall whether you sat through any briefings specific to this, this project?
A. I don't recall specifically sitting through a briefing on that project.
Q. And do you recall, I think I asked you this already, but do you recall anybody from Sarnoff that was working on the stray voltage project before Jody Lane had been electrocuted?
A. The older fellow that I mentioned before.
Q. Whose idea was it with that earlier project prior to Jody Lane being electrocuted, whose idea was it to measure an electric field associated with an energized object?
MR. EVENS: Objection, assumes a fact not in evidence. Lack of foundation.

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That is just a lawyer objection. If you can, if you have personal knowledge and can answer, answer.
THE WITNESS: Personal knowledge of whose idea it was to measure electric field on a stray voltage structure. I don't recall the origin of that, of that work.
BY MR. GOETTLE:
Q. You don't know whether it was Con Ed that had the idea that maybe we could measure electric fields to detect stray voltage?
A. I don't, I don't believe it was Con Ed.
Q. Why not?
A. The, the, I don't believe they had any, I don't think they had any resources or expertise in that.
Q. So it is your understanding that that idea would have come from someone from Sarnoff?
MR. EVENS: Objection. Misstates his testimony.
THE WITNESS: The idea of using electric field to, is that your question,

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whose -- is someone at Sarnoff likely to have generated that idea, is that your question?

I think it is likely that -- I think it is within the body of knowledge of, you know, a, I think it is within the body of knowledge of an engineer who is working in, that has experience with electric fields.

So, I don't know, I don't know where that, you know, initially would come from.

BY MR. GOETTLE:

Q. It could have been that --

A. It seems rather obvious to someone who, who, you know, that electric field is, is associated with electricity.

So, the obviousness is that electric field is associated with electricity.

Q. Okay. I see. So, back in this time frame prior to Jody Lane being electrocuted, and being confronted with this problem of trying to detect which object along a street might be energized by stray voltage, it would have been obvious to the skilled artisan to detect the electric fields to find those stray voltages?

A. No.

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Q. No, okay. I misunderstood your last answer then.

MR. EVENS: Right now there is no question pending.

THE WITNESS: Okay.

BY MR. GOETTLE:

Q. Do you understand why I don't understand your last answer?

A. No.

Q. Okay. Let's start over then just to get the record clear and make sure I'm being very clear with my questioning.

A. Okay.

Q. I had asked you whether it was, whether you thought it was Con Ed's idea to detect stray voltages by looking for electric fields. Do you recall that?

A. I recall that.

Q. Yes. And I think your testimony was you didn't think they had the technical ability to come up with that idea.

A. I, I, yes, I said they did not have the, I don't think it was in their technical prowess, or, you know, to put that concept

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forward.

Q. Okay. So, would it have been someone from Sarnoff that would have come up with the idea of detecting electric fields to find the source of stray voltage?

A. I think since I wasn't in that genesis part, it would be hard for me to say who exactly put that concept together and said, you know, this is what we should do.

Q. Okay. You don't know whether that idea came from Sarnoff?

A. I wasn't there. I wasn't in that room.

Q. Okay. So you don't know whether Sarnoff came up with that idea either --

A. I don't know.

Q. -- because you weren't there. Okay.

What was your understanding of, when you, either when you saw the handheld sensor, or just because you were semi-cognizant of the project, what was your understanding of what the handheld sensor was going to be used for?

MR. EVENS: Objection. Assumes a fact not in evidence. Lack of foundation.

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To the extent you can answer, you can answer.

THE WITNESS: So, ask it again, please.

BY MR. GOETTLE:

Q. You were cognizant of this project going on, right?

A. Yes.

Q. Before Jody Lane was electrocuted.

A. Yes.

Q. And, you even saw a demonstration of the handheld sensor, right?

A. Yes.

Q. What was your understanding of what the use of that handheld sensor would be?

A. So, I saw it pointed at a streetlight, and the concept was that there was potentially voltage on that streetlight and this was a sensing method to look at that.

Q. And the purpose of that was to see if it would work?

A. Yes.

Q. To see if it could detect an electric field associated with an energized light pole?

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A. Yes.
Q. And, did you have an understanding of whether an idea would have been to put that handheld sensor on a vehicle and use it by driving up and down the street, rather than holding it in your hand?
A. That was not, that was not part of my thinking at the time.
Q. You gave it thought and that part never occurred to you?
MR. EVENS: Objection. Lacks foundation. Assumes facts not in evidence. And to the extent it relies on testimony, it would misstate his prior testimony, Dan.
THE WITNESS: Can I hear the question again?
BY MR. GOETTLE:
Q. Yes, I lost the question, too.
So, at the time of this development, Sarnoff's development of a handheld sensor prior to Jody Lane being electrocuted, it never occurred to you one way or the other whether that would be used on a vehicle?
A. No.

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MR. EVENS: Object to the form of the question.
BY MR. GOETTLE:
Q. I think you testified that when you saw the demonstration, the reason that you knew that it worked to detect the voltage on the light pole was because it had an indicator, or an alarm go off. Is that right?
A. I saw a sensor, a handheld sensor, with a control box and when it was pointed at the streetlight there was an alarm --
Q. Was there --
A. -- that sounded.
Q. I'm sorry.
A. There was an alarm that sounded.
Q. Was there any other indication of an electric field associated with that light pole?
A. I don't recall.
Q. You don't recall one way or the other whether there was some sort of output display on maybe a computer screen?
A. I don't recall seeing one.
Q. Is it your understanding that that handheld sensor was an entirely analog device and

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had no digitizing at all?
A. It wasn't my design.
Q. So, you don't know one way or the other?
A. I don't know the, I don't know the circuit design within that box.
Q. So it could just been digitizing, you just don't know.
MR. EVENS: Object to the form of the question. Lacks foundation. Beyond the scope of his knowledge.
THE WITNESS: I can't comment on what is inside of that box. I didn't design it.
BY MR. GOETTLE:
Q. Okay. All I want to get to is the reason you can't comment is because you don't know.
A. Yes, I don't know what was in that box I saw on that day that was pointed at that streetlight.
Q. Okay. Did you see any other, any further development of that handheld sensor?
A. No.

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MR. EVENS: Objection, assumes facts not in evidence.
BY MR. GOETTLE:
Q. Do you know what happened with that project, the stray voltage project prior to Jody Lane being electrocuted?
A. Do I know what happened with it? I don't quite understand the question.
Q. Did that project progress?
A. Did it progress beyond what was demonstrated, is that your question?
Q. Yes.
A. I don't believe it did.
Q. Do you know why?
A. I don't believe there was funding. But I don't, I don't, I don't know all of the contracts and all of the details of everything, you know.
Q. Is it fair to say then at some point that that project ended before Jody Lane was electrocuted?
MR. EVENS: Objection. It calls for speculation.
THE WITNESS: I believe that project

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had concluded at some level.
BY MR. GOETTLE:
Q. Okay. Before Jody Lane was electrocuted?
A. Yes.
Q. Okay. And I take it there was no other stray voltage project that you are aware of that occurred at the conclusion of that project and prior to Con Ed coming to you after Jody Lane was electrocuted?
MR. EVENS: Object to the form of the question.
THE WITNESS: So --
BY MR. GOETTLE:
Q. Let me rephrase it. It was a terribly worded question. Even I was confused while I was saying it.
A. Okay.
Q. Con Ed came to you in 2004 after Jody Lane was electrocuted. Right?
MR. EVENS: Object to the form of the question. Misstates the evidence.
THE WITNESS: Con Ed came to Sarnoff in 2004 after Jody Lane was electrocuted and

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asked for help.
BY MR. GOETTLE:
Q. By the way, just to step back, before we leave the earlier, the pre-Jody Lane project for stray voltage, was, did Sarnoff document that project in any way --
MR. EVENS: Objection.
BY MR. GOETTLE:
Q. -- that you are aware?
A. I, I document my projects. I can't speak for what level of documentation went on, you know, under someone else's leadership.
Q. You didn't see any documentation?
A. At that time, in 2003, I was not, I was not reading. No, I didn't see any. To my recollection, I didn't see any documentation at that time.
Q. And you said 2003, is that when this --
A. I'm using 2003, because that is a date I know to be prior to Jody Lane dying.
Q. I see. Okay.
A. But I, to put an exact date and say that that happened in 2003, it is not a, it is,

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I'm not associating the calendar with this.
I'm just saying that there was some effort prior to Jody Lane. She died in early '04.
Q. Right.
A. The thing before early '04 is '03.
Q. Got you. So, at that time prior to Jody Lane dying, you hadn't seen any documentation on that early stray voltage project?
A. I had, prior to Jody Lane dying, I had not read any Sarnoff reports on stray voltage projects.
Q. After Con Ed came to Sarnoff to talk about, to study stray voltage again, apparently again, did you at that point going forward ever see any documentation of the early stray voltage project?
A. So, in 2000, you are asking in 2004, did I see any documentation of the earlier work that was done at Sarnoff on stray voltage.
I believe the schematics of that equipment were available in the early '04, or in the post-Jody Lane's death time frame.

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Q. So, you may have seen a schematic diagram of that handheld probe we talked about earlier?
A. I believe they were available. I don't have specific recollection of reviewing them or whatever.
Q. How would you have received them? Or how would you have obtained them?
MR. EVENS: Objection, lack of foundation. And to the extent it is based on his testimony, it misstates the testimony. "It" being the question, sorry.
THE WITNESS: I'm sorry. Ask it again and I will see what I can --
BY MR. GOETTLE:
Q. Let me step back.
So Con Ed comes to Sarnoff after Jody Lane is electrocuted, right?
A. Yes.
Q. And Con Ed is coming to ask for help on a problem that they had already come to Sarnoff about a few years earlier, right?
A. At some time earlier.
Q. Some time earlier. And I would

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assume that Sarnoff engineers working on the project after Jody Lane is electrocuted wouldn't start from scratch, right?

A. It is not typical to start from scratch on a project with, when you have history in it.

Q. So it seems like the engineers who would be working on it after Jody Lane was electrocuted would be interested to see what Sarnoff work had already been done, right?

A. Yes.

Q. So, how would you go about finding that early work?

A. You would talk to the people that did the early work.

Q. And, you or -- let me step back.

Now, let's just talk about how the engineer team was set up at Sarnoff to work on the project after Jody Lane was electrocuted. You led that team; is that right?

A. To do the, the development work, I led a team to develop a contact voltage testing solution for Con Edison after Jody Lane was electrocuted.

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Q. Okay. Who was on your team?

A. There was quite a few people on the team. At that point in time, that initial project, there would have been technicians, I think there were two, two engineers that I worked with. Peter Zalud comes to mind.

Q. What was his role?

A. Peter was a, had a lot of experience with mathematical analysis.

Q. So, how did he use that experience with mathematical analysis to help you on the project?

A. He would, he would take sensor data and use mathematical models to, you know, to help turn that into, you know, signal, signal data.

Q. Okay. We have to stop so he can change out the tape.

THE VIDEOGRAPHER: The time now is 11:13, we are going off the record. This is the end of Disk Number 1.

(Recess taken -- 11:13 a.m.)

(After recess -- 11:26 a.m.)

THE VIDEOGRAPHER: The time now is 11:26, we are back on the record. This is

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the beginning of Disk Number 2.

BY MR. GOETTLE:

Q. I'm going to come back to the Sarnoff work we were just talking about, but I realized I left a couple of things hanging that I meant to circle around earlier.

A. Okay.

Q. When we were talking about your job functions as chief technology officer at Power Survey.

A. Yes.

Q. One of the things that you mentioned that you do is you educate the public and the industry on the dangers of stray voltage.

A. Yes.

Q. What does that work entail?

A. I have given a number of talks at technical symposia. I spoke in front of the National Safety Council; I may not have that right, in NCS, NSC, I don't -- but it was a, something like that.

Q. Uh-huh.

A. And I have spoken in front of regulatory bodies and legislative bodies. And at

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conferences for regulators.

Q. And you say you spoke in front of legislative bodies and regulatory bodies?

A. Uh-huh.

Q. And what is the purpose of speaking in front of those bodies?

A. To educate them on the concerns for contact voltage, the dangers and hazards. Public safety risks.

Q. And is that work, is the goal of that work to get legislation and regulations adopted to regulate --

A. There are times when, when my talks are oriented towards, you know, persuading regulators and legislators to make stray voltage a topic of their regulations or their laws.

Q. And why do you do that?

A. The contact voltage is a serious safety hazard, and to the extent that I can educate these folks and they can do their job to provide the public safety, you know, associated with power distribution, then that is a big part of my goal.

Q. Any other reason that you did that?

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A. You know, at the end of the day, contact voltage is a serious safety concern. I will give you an example.

So, in spring, in the spring of 2013 a young girl named Jayden Hicks was shocked; she was, this was in Salina, Kansas. And she was playing in the rain. And she stepped in a puddle that was near a junction box for a street lighting circuit and Jayden was ten years old and she was electrocuted. So she fell down on that street and when people tried to help her they couldn't because when they touched her they got shocked.

Q. Uh-huh.

A. So, they called the fire department and a few minutes later the fire department got a fiberglass pole and they pulled Jayden off of that structure.

Q. Uh-huh.

A. And they sent her to the hospital and Jayden was in a coma. So, with contact voltage, you know, being my issue and my concern for contact voltage, I thought, you know, how can I help?

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There was a website on Facebook called Prayers For Jayden and I thought how could I help with my expertise.

So, I took a team and I took one of our trucks to Salina, and I didn't, you know, I didn't approach anyone for a contract or any funding or anything. And I scanned the entire town of Salina. And I found a number of things that were energized and at some point I got to the ball field. You know, they had a big complex, a lot of baseball fields, and I thought of Deanna Green and I actually took my truck and checked all of the fences and the lighting in the ball field. And I gave that information to the city officials and they fixed whatever was wrong there. And I thought if that was my piece that could help that town heal because of what happened to Jayden, then that is, you know, that is important to me.

December 31st, 2013, Jayden passed away from her injuries and, and, that is why I have to educate everyone about finding every last contact voltage hazard so that my kids and your kids are kept safe from, safe from contact

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voltage.

Q. I appreciate that.

A. That is, that is what I do.

Q. So, when was the last time that you, that you presented to any regulators or legislators?

A. It was a few years ago. I would say 2011, 2012, I believe that was the last conference I did for that effort.

Q. Are you the only employee of Power Survey or any person at Power Survey that does those types of presentations to legislators or regulators?

A. No one is doing that right now.

Q. Nobody is doing that right now?

A. Yes, we, we are not currently pursuing regulations at this moment.

Q. Okay. But when Power Survey is pursuing regulations or legislations, are you the only one that goes around and presents?

A. When we are or when we were?

Q. When you were. When Power Survey was.

A. When we were pursuing regulations

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and legislation, we had a regulatory affairs person who really spearheaded that.

Q. So, that regulatory person aside from you in 2011 or 2012, that regulatory person is the only Power Survey person going around and presenting to legislators and regulators?

A. No, no, no.

MR. EVENS: Objection, lack of foundation, misstates testimony. With that you can answer.

THE WITNESS: We had a regulatory affairs VP and she arranged, she would talk, she would meet with regulators, she would meet with officials, and occasionally I would accompany her and provide sort of the technical speech or the, you know, the speech on the hazards of contact voltage and why it is important to, you know, do it.

BY MR. GOETTLE:

Q. What is her name?

A. Connie Hughes.

Q. So, Connie, either alone or with you is the only person at Power Survey that would go around and meet with regulators or legislators

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about contact voltage?
A. Is the only person -- I believe at times Tom Catanese may have been involved in those meetings.
Q. Anybody else?
A. I don't believe other Power Survey employees were attending those meetings.
Q. When was the last time, to your understanding, anybody at Power Survey met with regulators or legislators, or presented to regulators or legislators about contact voltage?
A. It was quite some time ago. It had to be in the '11, '12, time frames, somewhere back then.
Q. 2011?
A. Yes.
Q. Or 2012?
A. Somewhere in those time frames, yes.
Q. So I take it from that answer that it would either be late 2011 or early 2012 would have been the last time?
MR. EVENS: Objection.
THE WITNESS: That is far too specific for me to recall.

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BY MR. GOETTLE:
Q. It could have been anywhere in 2012. You really can't recall?
A. I, without a calendar and looking at my travel history it would be hard for me to pin a date as to exactly when this stuff happened.
Q. Are you involved at all in responding to requests for proposals regarding contact voltage?
A. Yes.
Q. What do you do in that work?
A. The program description that is within the proposal, technical, the technical elements of it are my responsibility.
Q. And so you write, you write that part of your response?
A. I write the technical components.
Q. When was the last time that you did that?
A. Well, our proposal efforts are as-needed. I would say a few months ago was the last proposal. Last proposal that went out.
Q. In 2014? Today is, by the way today is April 18th. I had to check.

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A. Yes. I am not intimately involved in -- I'm not the source of every proposal. So, I can't speak as to exactly what proposals have gone out.
Sometimes proposals are just boilerplate, you know, with updated client information and pricing. And I don't get involved in that.
Q. Okay. So, the last one that you were involved with was within the last few months; is that right?
A. I may have had some cursory involvement but I haven't done any, you know, serious, you know, heavy duty editing of technical content in the last few months.
I'm not saying that proposals haven't gone out with my content, but once you have a template, then, those proposals will flow based on that.
Q. I see. So, since the filing of this lawsuit in September of 2013, you think that you have been involved in writing a portion of a response to an RFP?
A. Yes.

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Q. How many?
A. Small numbers.
Q. Less than five?
A. Likely.
Q. Could actually be more than five, though?
A. You know, I don't track that.
Q. Right.
A. It would be hard for me to put a number on it.
Q. And even aside from the ones you know about, there could be others that you might not even be aware of?
A. Yes.
Q. Okay. Now, aside from, I don't really understand the business all that well. So, aside from responding to RFPs, does Power Survey also bid to perform stray voltage detection? Or is that, is bidding the same thing as responding to go an RFP?
A. A large utility will supply a RFP, and the response from Power Survey will be a, if it is a large utility it will be, our response will be a bid package.

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Q. I see.
A. So the bid is an answer to an RFP. A bid contains a proposal.
Q. And is that, is the process different for smaller utilities?
A. The process is dictated by the customer and it can vary.
Q. I see. So, when you are not responding to a bid, because it is a smaller customer, what, how do you request the work? How does Power Survey, I should say, how does Power Survey find out about the work and make a request or submit a proposal?
MR. EVENS: Objection, lack of foundation. And may be beyond the witness' competence.
THE WITNESS: We are sometimes contacted by customers, you know, saying they have a problem. Or sometimes we will reach out to the various utilities and suggest that we meet and perform demonstrations.
BY MR. GOETTLE:
Q. Has that activity been going on since the filing of this lawsuit in September,

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2013?
A. Yes.
Q. And you have personally been involved in that type of activity?
A. Yes.
Q. How many times would you estimate?
A. A few. A few trips here or there.
Q. Less than five?
A. Maybe around four or five.
Q. Okay. Do you have an understanding of whether Premier has also been doing the same types of things with the same customers in this time period after the filing of the complaint in September of 2013?
A. Myself, I don't have a great sense of Premier's activity with, in association with my recent visits to customers.
Q. Would it surprise you if you learned that Premier was also contacting those same customers?
A. It would not surprise me if Premier contacted customers soliciting business in stray voltage testing.
Q. Okay. All right. Back to the fun

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stuff.
We just talked briefly about Peter Zalud --
A. Yes.
Q. -- as Peter being involved with the stray voltage study after Jody Lane was electrocuted.
MR. EVENS: Object to the extent it mischaracterizes the testimony.
THE WITNESS: Peter Zalud was an engineer that worked with me on my, on my early efforts in mobile stray voltage detection.
BY MR. GOETTLE:
Q. And he devised a way to take sensor data and use math models to help turn that data into signal data; is that right?
A. I don't, I don't believe, I don't believe that wording is exactly right.
So, Peter Zalud would take data that I was capturing with the sensor system and run it through mathematical models at my request to find the components of the signal I was interested in.
Q. Okay. So the sensor would sense an

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electric field.
A. Yes.
Q. Okay. And from that would generate a signal; is that right?
A. Our sensor system sensed an electric field. Our sensor system captured that electric field, and through our, through our analysis and system we would find an indication that there was electric field present there which was in our case associated with an energized structure or service.
Q. And that process at least in part was figured out by Peter Zalud?
A. I can't say that Peter Zalud figured out the process. The process was part of a, you know, an engineering sequence that I, you know, it was an engineering task along the way of getting from an energized structure to a user, usable indication output.
Q. And it, the part of the process involved finding components of the signal that could correspond to an energized structure?
A. So, Peter's work was to take the signal information that we captured and digitized

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off of the sensor and to generate data plots of the various amplitudes, frequencies, that were coming from the energized structure.

Q. So his role was devising a way to have these plots generated, the plots of amplitudes and frequencies.

MR. EVENS: Objection, asked and answered.

THE WITNESS: I, I am not sure I agree with the term devising. I think I explained what Peter did.

BY MR. GOETTLE:

Q. Okay. Look I'm not trying to try to paint you in the a corner or anything. I'm really trying to understand what Peter Zalud's, I keep writing down, I've written down three of your answers I think verbatim, and I'm trying to make sure I have internalized it and I'm trying to use the words back to you and I'm not getting it right. So let me try it again?

A. Okay.

MR. EVENS: Dan, with that, if he has answered it and you wrote it down then there is no further question to then restate

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what it is that Peter Zalud has done.

MR. GOETTLE: Mark, I don't understand what you are doing right now.

MR. EVENS: I am objecting to you ask the same question four or five times.

MR. GOETTLE: Object and state the reason and let me continue.

MR. EVENS: You have given a reason and it makes no sense within justifying continuing to ask the same question over and over.

BY MR. GOETTLE:

Q. So, was Peter Zalud's participation on your team, his role was to figure out how to generate plots of the amplitudes and frequencies of the detected signals.

MR. EVENS: Same objection, asked and answered. And it may be a mischaracterization of the testimony.

With that you can answer.

THE WITNESS: So, Peter would take the sensor data that I captured off of the prototype sensor system, and he would use mathematical models to separate that signal

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into frequency and amplitude components.

BY MR. GOETTLE:

Q. Okay. Would that process of separating into frequency at an amplitude components involve using filters?

A. There are many components that make up the system and I think the term filter needs better definition in this paradigm.

Within the mathematical model there are mathematical models of filters.

So to the extent that one could or may employ a mathematical model of a filter to change the mathematical computation that one is working with, one could use a mathematical filter as part of that process.

Q. Did that process involve using fast Fourier transform?

A. I don't recall the exact tools that Peter used in that tool box.

Q. Do you recall whether it would involve using an amplifier?

A. In a mathematical model, an amplifier is just a math function.

So, to the extent that math

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functions like that exist, it is hard to say whether they were used or not. But in that paradigm, it is just a multiply.

Q. Okay. And then in developing this system as part of your, the engineering work that you supervised, how did you use the mathematical models that Peter came up with?

A. The understanding of the signals that were coming from the energized structures forms the basis for how we program digital signal processors to then implement our intended functionality.

Q. You used the mathematical models that Peter Zalud came up with in order to figure out how to perform the digital signal processing in the device?

MR. EVENS: Objection, mischaracterizes the testimony.

BY MR. GOETTLE:

Q. Is that right?

A. There is a design process when you are, when you are trying to build an instrument that has, that uses those techniques and skills in an iterative process.

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So, so you use, you use what you, you start with your data. You mathematically model some computations you would eventually like to do in a DSP. And when you are happy with the results, you try it in your DSP.

Q. Okay. And if it doesn't work in the DSP then you would go back and adjust the mathematical models in this iterative process that you have referenced?

A. You often use the mathematical simulation because it gives you the flexibility to take one set of data and experiment with it.

Q. Okay. So, aside from Peter Zalud, who else worked on the project after Jody Lane was electrocuted?

A. I had guys that designed circuit boards. I had guys that, technicians that put together hardware. Names, that initial effort was reasonably small.

I remember Larry Mackey put together a lot of hardware.

Q. M A --

A. M-A-C-K-E-Y, or M-A-C-K-E-Y, perhaps. There was another engineer, too, that

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programmed stuff. He programmed, I'm trying to think of his name. It will come to me, but it is not coming to me right now.

Q. Okay. Fair enough. How far into the project were you before you decided that you were going to use electric field detection to find these stray voltages?

MR. EVENS: Objection, lack of foundation.

THE WITNESS: That was --

MR. EVENS: Go ahead, you can answer.

THE WITNESS: Electric field was, when I got involved, the electric field was my first priority or, you know, first thought, the first concept that I thought would be useful based on what I knew and based on the prior work that showed that that streetlight had an electric field signature.

BY MR. GOETTLE:

Q. Did you ever consider using any electric field meters that were already, or -- let me step back in terminologies.

Is electric field meter the right

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way to refer to the sensor probe? Like, how do you refer to that device?

A. I refer to it as a sensor probe.

Q. Okay. So, did it ever, did you ever consider using a already commercially available sensor probe rather than designing your own?

A. My experience with some commercial equipment led me to believe that the sensitivities of those products and the specifications that came with them, that they were not sensitive enough for this, for this application.

Q. Do you recall any of the probes that you were already familiar with at that time?

A. I remember something that said -- what was the name of that company. We had a lot of test equipment at Sarnoff. And, I know there were electric and magnetic field probes that I had used.

I know, I know, what is that stuff. I remember a big suitcase.

Q. Fair enough.

A. Yeah, I --

Q. It was a while ago?

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A. Yes, yes.

Q. Did you ever consider using Narda's EFA-300?

A. No.

Q. How come?

A. I had to do fundamental development work. So, I needed to see, I needed to see the whole signal. I needed control over all of the circuitry.

My background in antennas and circuit design, and my early prototyping, you know, told me that I needed a, that I would get the best performance from a specifically purposed design.

Q. Were you aware of the EFA-300 at that time?

A. No.

Q. I may have already asked you this, but, do you recall who it was from Con Ed that came to Sarnoff?

A. I don't.

Q. At that time had you heard of the company called Wandel & Goltermann?

A. No.

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Q. Okay. So, can you, now we are going to go along in the timeline. Can you talk to me and describe to me how you went about developing, I guess, I think you have referred to it as a prototype, maybe, your first system, how did that development take place? How did it progress?

A. So Con Ed had made the general request that they needed help finding stray and contact voltage in their system. After Jody Lane was killed there was an urgency to have a system that would work rapidly, accurately and cover a lot of ground.

So, we said we would work, we proposed to do a mobile system, something that could be, that could move quickly. And we proposed that we would use electric field detection to effect that means. And we started out with early sensors that had basically signal capture capabilities, some amplification, some signal capture capabilities, and we operated those on some test sites that we had built.

We characterized the signals that were coming from those and we worked on, we worked on hardware designs and software designs

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to effect that means.

Q. And do you recall who did the software design?

A. I laid out a lot of the parameters to what, you know, what was important, you know, to find what signals were important to find and what were interesting.

There was another fellow that did the programming, I mentioned earlier, I still haven't come up with his name, but he programmed a lot of the DSP stuff.

So we started out with a prototype board, a DSP board and we programmed it, tried programs on it, and, iteratively worked on that as part of the effort.

Q. Do you recall who had worked on the hardware design?

A. Dennis, Dennis -- there was a guy named Dennis that worked on it. He did circuit board layouts.

Q. Somebody with the first name of Dennis?

A. Yes.

Q. Okay. How was the work documented?

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A. So, depending upon, on our documentation Sarnoff was R&D style.

So, whoever was working on a particular project had it on their computer. And hopefully, hopefully, you maintain that stuff if that project was of interest to you, because it is not uncharacteristic for generation loss, let's call it.

Q. Uh-huh.

A. Every time somebody gets a new PC.

Q. Did any of that R&D style documentation come over with you to Power Survey?

A. I don't think the early, the early stuff lasted through that. And if it had, and it was on paper, then we lost it in 2012 when Sandy flooded our facility.

Q. No kidding.

A. I had five feet of water in our facility. So, I had, you know, I had no office for six months after that.

Q. Brutal. If I could get you to turn to, let's go to Paragraph 7, on Page 3 of your Declaration, Kalokitis 1.

A. Yes.

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Q. Just a couple of terminology things. We have talked a lot today about contact voltage and stray voltage. At least those are terms I have been using.

A. Yes.

Q. And, I wanted to make sure that I have a good understanding of what stray voltage means in this context.

And I think I found a way to short circuit this discussion on the train ride down.

Do you agree with, I'm not sure of the expert's, how to pronounce it, it is either Fugate or Fugate. You have talked to your technical expert that was hired in this case?

A. I have spoken to Fugate.

Q. Fugate. In his, and I can pull it out and show it to you if you want, but I just want to see if you agree.

In his Declaration he says that stray voltage is un -- quote, "Undesired voltages on conducting objects resulting from leakage of electric power from the lines."

A. Could I see that document.

Q. Absolutely.

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MR. EVENS: I was just about to note an objection unless you show the witness a document.
BY MR. GOETTLE:
Q. Well, you know what, I'm going to show you the document. I have no problem doing that. I just, but my question is just, I mean, do you think that this is a reasonable --
MR. EVENS: I'm going to instruct him not to answer unless he sees the quote.
MR. GOETTLE: You are instructing a witness not to answer a question that is not privileged? Really? Really?
MR. EVENS: Here, let me state, my objection is this: I want to ensure that what you are reading is complete. So we would like to see the document.
BY MR. GOETTLE:
Q. I'm going to show you the document. I'm going to show you the document. Do you agree, though, before I do, that stray voltage is undesired voltages on conducting objects resulting from leakage of electric power from the lines?

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A. I would say that the definition of stray and contact voltage varies with the audience and the time that you are using the term.
And a lot of confusion surrounds those terms to this day, and I may, depending on the audience, use one or the other and depending on the time one or the other has been used.
So, it is very difficult to nail that one down.
Q. So, stray voltage can have different meanings in different contexts?
A. Yes.
Q. What would be the context, what would be the meaning of stray voltage in the context of your patents?
MR. EVENS: To the extent you can answer without looking specifically at the patents, for context.
MR. GOETTLE: Mark, you are coaching, please stop.
THE WITNESS: What would be the context, I'm sorry, say the question again.
BY MR. GOETTLE:

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Q. I just want to know you have used the term stray voltage in your patents, right?
A. I use the term stray voltage in the patents, I believe that is correct.
Q. And I just want to know what does it mean, what does stray voltage mean in that context?
A. Stray voltage in the context -- stray voltage is the broader term. At the time that was written, it was the common term and maybe the only term in common use, for a voltage on something whose source was unknown or at least unknown to the observer at the moment.
So, if you found an object, we talked about streetlights earlier, if the you found an object with, if you found a streetlight with 20 volts on the outside of it in 2004, you would say it had stray voltage on it in 2004.
Q. Assuming that, let's assume that the light is off. I actually get a little confused if the light is on, because I don't know.
A. The light being on or off is irrelevant.
Q. It is?

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A. Yes.
Q. But there is voltage at the bulb, right?
A. If the light is on?
Q. Yes.
A. Generally there is voltage at the bulb, yes. There would be voltage at the bulb if the light was on.
Q. But you would not call that stray voltage?
A. No, you would not.
Q. So, your example, you mean the light pole?
A. Correct.
Q. Would it be correct to think about stray voltage as a voltage that is, like you wouldn't expect to be there or shouldn't be there?
A. You would, you would characterize, again, you know, the use of the term stray or contact voltage has a temporal component, it has an audience component, and, I can use it a number of different ways depending upon the time and the place in the audience.

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And, it is, it is something that the industry struggles with today. They struggle to put a proper definition on it, not only the industry but the public, the regulators and the media all have this same struggle.

So, I, I don't like to pin the term unless I know the audience and the time it is being used. Because it changes.

Q. Okay. But I'm only talking about in the context of your patents, in your invention.

In your invention would stray voltage, would that phrase stray voltage indicate a voltage that would be unexpected? Is that a way of thinking about it?

A. My patents are for, the invention in the system is for a system that finds voltage at a distance. Noncontact voltage at a distance on objects.

MR. GOETTLE: Would you mind marking that one as Kalokitis 2.

(Kalokitis Exhibit Number 2 marked for identification.)

THE WITNESS: Sure.

MR. EVENS: Dan, this is really your

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issue not ours. But there are parts of the Fugate Declaration that I think are confidential to your client. So you may --

MR. GOETTLE: Let me think about this.

MR. EVENS: You may want to handle this in a way that what you want to specifically refer to we pull out or when the reporter takes custody, we have the pieces that are confidential handled in a way that doesn't affect your client.

THE WITNESS: I was just going to get up and get a bottle of water if you don't mind.

MR. EVENS: You know what, I'm going to give you.

MR. GOETTLE: Do you need a break?

THE WITNESS: No, I'm good.

MR. EVENS: Dan, lunch is ready if you want a break.

MR. GOETTLE: Actually this is your deposition not mine, so, whenever you want to break for lunch, you guys just tell us.

THE WITNESS: I could keep going for

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a little bit, unless somebody else's stomach is growling.

BY MR. GOETTLE:

Q. I mean, when you are having this much fun, you know. Let's do this. The exhibit has been marked. I'm going to direct your attention because I actually don't even have a question for you from this, but I promised you I would give this to you and I felt like it would look bad if I didn't.

A. Okay.

Q. I'm going to direct your attention to the paragraph that I read from.

A. Okay.

Q. About what Dr. Fugate says stray voltage means.

A. Okay.

Q. And then I'm going to, with your permission, we will just pull out the charts that are in the back and not include those as part of the exhibit.

A. Okay.

Q. Okay. So, if you go to Paragraph 25, and I will give you, it is a short one, so,

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if you want to just read it.

A. Okay. Okay. I read it.

Q. Do you agree with Paragraph 25?

A. I will say that, that the term stray voltage -- so, one of the things that stray voltage refers to, but not the only thing that stray voltage refers to, is, was undesired voltage on conducting objects resulting from leakage of power systems at that time.

Is that clear?

Q. Okay. So --

A. One of the things stray voltage refers to, among other things that it refers to at that point in time, is undesirable voltage on conducting objects.

Q. Okay. I think where my train of thought got sidetracked is where we were talking about the R&D style documentation.

Aside from the R&D style documentation, would there have been any other documentation of the system that you were developing for Con Ed back in the 2004 time frame?

A. There would have been likely a

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report to the customer.
Q. So, in your Declaration, at Paragraph 9 on Page 4, of Kalokitis 1.
A. Yes.
Q. Was the first device that was built. this prototype that you describe in the first sentence, the trailer-mounted system?
A. Was the first device we built a trailer-mounted system, is that your question?
Q. Yes.
A. Was the first device we built a trailer-mounted system?
So, the first, the first device that I gave to Con Ed to test, for them to test, was a trailer-mounted system.
Q. And that is the prototype that is discussed there in Paragraph 9?
A. Yes.
Q. Okay. So but there was a device before that, or multiple devices before that?
A. There was various bits of hardware that were duct taped together and used as development bits; I think that is a bad way to characterize our professional work.

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But, R&D, you know, you find a way to make things work.
Q. When the prototype was delivered to Con Ed around 2005, would there have been a report prior to that, delivered to Con Ed?
A. Our typical format was a final report associated with the conclusion of a project.
So my expectation is that we wrote a final report associated with that. And we, yes, I mean that would be our normal process.
Q. But would the final report have been delivered then with the prototype?
A. On or about?
Q. Okay. Do you have that report or does Power Survey have that report?
A. I don't know.
Q. You might have it; you just don't know?
A. I might have it. I don't know.
Q. I'm sorry to do this. I drank my Coke way too fast and I need the break, would that be okay?
MR. EVENS: Why don't we break for lunch. That might be a good time.
THE VIDEOGRAPHER: The time now is 12:22, we are going off the record.
(Recess taken -- 12:22 p.m.)
(After recess -- 12:58 p.m.)
THE VIDEOGRAPHER: The time now is 12:58, we are back on the record.
BY MR. GOETTLE:
Q. Okay. So, just for the record, housekeeping, what I would like to do is put in Kalokitis 2, which is, which will be a portion of the Declaration of David Fugate. The Pages 1 through 10, the first 10 pages of that will be Kalokitis 2.
MR. EVENS: That is fine. And as we talked earlier, subject, you know, given that it is an incomplete document, but, I think for our purposes, that is fine.
BY MR. GOETTLE:
Q. Hello, so going back to your Declaration, Page 4, Paragraph 9.
A. Page 4, Paragraph 9, yes.
Q. So, that refers to a prototype that you built and delivered to Con Ed in 2005?

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A. Around 2005 we delivered a trailer-mounted prototype.
Q. You agree with that? That timing?
A. I believe it was around 2005; I agree it was around 2005.
Q. Okay. I'm going to hand you -- you want that one?
MR. EVENS: No, no you need to keep that one.
MR. GOETTLE: You get that one.
MR. EVENS: I get that one. You get the pretty yellow sticker.
BY MR. GOETTLE:
Q. The court reporter has just handed you what has been marked as Kalokitis 3.
A. Right.
(Kalokitis Exhibit Number 3 marked for identification.)
BY MR. GOETTLE:
Q. This is a provisional patent application numbered, and if you want to verify it I will point to where I am reading from right there. So Serial Number 60/639054.
A. Yes.

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Q. Do you recognize this patent application?
A. It looks familiar. Yes.
Q. This is the first patent application, this is a provisional patent application, but this was the first patent application that was filed with respect to your work on stray voltage for Con Ed, right?
A. Yes. Yes.
Q. Okay. And then referring to your Declaration at Paragraph 10.
A. Yes.
Q. This is the, Paragraph 10 refers to a patent application filed starting in December, 2004.
A. I see that.
Q. And that, is that a reference to Kalokitis 3?
A. Yes.
Q. Okay. So, this Kalokitis 3, the provisional patent application was filed December 23, 2004. Right?
A. This document says December 23, 2004.

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Q. Okay. And, if you, if you want to review it please feel free, but this is a documentation of the system that you developed for Con Ed, right?
A. Yes. Yes.
Q. So, what I would like to do is turn to the front of the document and look at the inventors that are listed there.
A. Okay.
Q. I just want to walk through these inventors and find out if you have a recollection of their contribution to the invention and where they are now.
A. Okay.
Q. So, you are the first named inventor, right?
A. Correct.
Q. And then next is David Berends.
A. David Berends, yes.
Q. Who is David Berends?
A. David Berends did the DSP processing.
Q. Was he the elderly gentleman that you couldn't remember the name of?

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A. No, that is Frank Lang.
Q. Also an inventor listed here?
A. Yes.
Q. Okay. So let's focus on Mr. Berends. He did the DSP processing for the prototype system?
A. He programmed the DSP, yes.
Q. So, could you pretend again I'm a 10th grader and tell me what it is that David brought to your prototype system?
A. David knew DSP programming and signal processing. So, he was, they were some of his talents.
Q. And why did you need his talents for this Con Ed system?
MR. EVENS: Object to the form of the question. Lack of foundation.
THE WITNESS: I had a broad, I had a big team at Sarnoff; we always worked in teams whenever we could. And, you know, you select some team members, and more work than one person can handle.
BY MR. GOETTLE:
Q. Okay. It was an ill-formed

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question.
A. Okay.
Q. What was, what DSP programming did he do for the prototype?
A. He programmed the DSP system, whatever it was, back in the day. He programmed, he wrote the code for the DSP.
Q. So, if you look in the provisional patent application, the '054 application to Figure 2.
A. Yes.
Q. Would there be one or more boxes to Figure 2 that would roughly correspond to the work that David Berends did?
A. You know, that is a complicated question. We typically sat down with a patent attorney and described what we did and, you know, things were associated from there.
Q. So, looking at Figure 2, you can't tell me whether the digital signal processing is performed?
MR. EVENS: Objection, misstates his answer.
THE WITNESS: Figure 2 does not

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contain a digital signal processor. So, you, there is no DSP code to put anywhere in Figure 2.

BY MR. GOETTLE:

Q. But, the digital signal processing, would that be performed within the PC that is shown in the lower right-hand corner?

A. I don't know that, without studying this document, I don't know the context of this block diagram. I don't know what it is describing.

Q. Okay.

A. And I don't know its purpose in the text.

So, I can't comment without studying it as to what this document is supposed to mean. It has been ten plus years.

Q. So, you don't, do you recall where Figure 2 in this '054 patent application came from?

A. Do I recall where it came from. I don't recall where it came from.

Q. Okay. How about Figure 3?

A. And honestly my previous comment, I

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didn't see where the signal processing goes frankly because I missed the little PC in the corner.

So, a PC is certainly capable of being programmed to do signal processing, but I didn't see it when I first looked at the diagram.

Q. No, no problem. And I am really guessing, I didn't know if it was going on in there or not. I'm just curious, do you think that is where digital signal processing was happening?

A. I would be speculating.

Q. How about in Figure 3, would you know where it might be happening with respect to Figure 3?

A. Yes.

Q. Where?

A. In the block that starts with TITMS 320.

Q. Okay. Do you know if Mr. Berends is at Sarnoff now?

A. I do not know where Mr. Berends is right now.

Q. Was he at Sarnoff when you left

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Sarnoff?

A. He was.

Q. Do you recall how long he, roughly he has been at Sarnoff?

A. Prior to my exit? I, I don't recall when he started. I don't know how long he was at Sarnoff.

Q. Would he have been in the microwave group?

A. That is a good question. Was Dave Berends in the microwave group? I believe he was.

Q. Okay. How about, well, we have already talked about Peter Zalud, right?

A. Uh-huh, yes.

Q. How about Frank Lang? What was Frank's contribution to this invention in the '054 patent application?

A. You know, the specifics about that again was something that we went over with the patent attorneys to associate who belonged where on these applications.

I can say that Frank was a, was a, an analog signal, an analog circuits guy. And

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that is probably what I remember most about Frank.

Q. But, specifically to this project, for detecting stray voltage, you can't recall exactly what Frank Lang's contribution was?

A. Frank's, I can't remember the specific contribution.

Q. Was, do you know if Mr. Lang is still employed by Sarnoff?

A. I believe Mr. Lang is retired.

Q. Do you know where he is now?

A. I do not.

Q. You don't know.

A. I do not know where he is.

Q. How about Frederick Vannozzi?

A. Frederick Vannozzi, yes.

Q. What did he do with respect to this?

A. He was also an analog, but more of a general purpose jack-of-all-trades.

Q. Can you describe any specific contribution he made to the invention in the '054 application?

A. I would have to go through the application and study what is in there to be able

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to think of, you know, what he, what he worked on.

My expectation is, as he is an analog guy, it would have been something in the analog portions of the circuits.

Q. Do you happen to know if Mr. Vannozzi is still at Sarnoff?

A. I do not know.

Q. Do you know how long he had been at Sarnoff by the time you left?

A. I believe he was there quite long.

Q. Longer than you?

A. I don't know.

Q. Have you spoken to any of the other inventors listed on the '054 application since you have left Sarnoff?

A. Have I spoken to any of the applicants since I left Sarnoff? Yes.

Q. Who?

A. Dave Berends.

Q. Why did you speak to Mr. Berends after you left Sarnoff?

A. I went to see -- he is also a concert pianist. I went to see him play at a

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small venue.

Q. Did you see him or talk to him on any other occasions?

A. It is possible. We don't stay in touch. But, there may have been an e-mail or two over the time.

Q. Do you believe any of your conversations would have involved detecting stray voltages or Power Survey's products?

A. I don't know, it has been quite some time since I spoke to him.

Q. Okay. Are you aware of any other documentation of the system that you developed for Con Ed regarding stray voltage that would predate the '054 application?

A. Documentation that would -- like I said before I expect there is a proposal for the work. And that is probably the, my one expectation of what is out there.

Q. The proposal would be before the work actually commenced?

A. Correct.

Q. Anything else that you can think of?

A. I can't think of anything that may

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still exist.

Q. And I don't remember if we talked about the proposal. Would that be something that would be in Power Survey's possession now?

A. I don't know. I don't know. I don't imagine I had a need for it, so it doesn't stick in my mind as something that I had to have.

MR. EVENS: Let me interrupt. Before you go to the next question, Dan, I've got to leave, I think it is 1:15, unfortunately. I will pass the baton.

MR. GOETTLE: All right, have a safe flight.

MR. EVENS: Thank you.

(Kalokitis Exhibit Number 4 marked for identification.)

BY MR. GOETTLE:

Q. I have just handed you what the court reporter has marked as Kalokitis 4. It is a U.S. provisional patent application, Serial Number 60/641470.

A. Yes.

Q. And this one names you as an inventor along with Mr. Lang and Mr. Berends,

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right?

A. Yes.

Q. Okay. Do you recall, and take your time to flip through it, but, do you recall this patent application?

A. It looks familiar, yes.

Q. Is this a patent application related to the work that you were doing for Con Ed regarding stray voltage?

A. Yes.

Q. And do you recall the thinking behind filing this patent application in addition to the '054 application that we looked at a minute ago?

A. No.

Q. Do you recall whether this patent application was divulging a further invention in addition to what is disclosed in the '054 application?

A. I don't know what the key differences are or what the intentions were. No, I don't recall.

(Kalokitis Exhibit Number 5 marked for identification.)

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BY MR. GOETTLE:
Q. The court reporter has just handed you what has been marked as Kalokitis 5.
A. Okay. Yes.
Q. It is a U.S. provisional patent application Serial Number 60/728168.
A. Yes.
Q. This one is titled Stray Voltage Detector With Video GUI.
A. Yes.
Q. And it names you, Mr. Polyzois.
A. Polyzois.
Q. And Mr. Schultz as inventors?
A. Yes.
Q. I take it at least one difference between this and the earlier patent applications is adding in a video GUI?
A. This, this adds a video graphical user interface to our system.
Q. And by video can you explain what that means?
A. A, the typical, well that is a good question. In today's terminology or then well, the essence of this was that there was a computer

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interface on a computer screen that was your graphical user interface. To the extent that a computer screen, I guess, is a video, I guess we called them video display terminals when I started. I guess that is the combination of terms.
Q. So, the video GUI was a reference to the computer display?
A. I think the system goes beyond that. The system -- let me see. Yes, the system has a video camera associated with these displays, I see here.
So, perhaps video responds, mentions that. Or perhaps it is the display terminal itself. I can't be sure as to what each word traces out to.
Q. Can I get you to turn to Figure 1A, which is only like three or four pages from the back?
A. 1A, yes.
Q. And you see there it has got the sensor probes.
A. I see that.
Q. Single access, and the other one I

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think you referred to as a triaxial?
A. I don't know what I referred to it as.
Q. Okay. And in the claims which is another four or five or so pages back, it is actually Page 44 of 63.
A. Yes.
Q. And you see Claim 1 there?
A. 44 of 63 of Claim 1, yes.
Q. The claim, at least in the beginning recites, "A sensor probe."
And below that it says that "The sensor probe includes a first pair of electrically conductive electrodes."
Do you see that?
A. I see that.
Q. And then it recites a second and third pair of electrically conductive electrodes. Do you see that?
A. I see that.
Q. And that corresponds to the Figure 1B that we were just looking at towards, on actually it was on Page 54 of 63.
MR. DESAI: Was that a question?

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THE WITNESS: So, you are asking if this Claim 1 references Figure 1B?
BY MR. GOETTLE:
Q. Or, if the, I guess, yes, I guess that is the way of referring to it, yes. At least Figure 1B is showing one example of the sensor probe recited in Claim 1.
A. Well, Claim 1 is a long, long list of text. And I guess 1B is related to, to Figure 1, to Claim 1.
Q. Because it is a sensor probe that has three pairs of electrically conductive electrodes?
A. That appears to be what it is.
Q. Okay. And it also recites an analog to digital converter.
A. Yes, it does.
Q. And a processor for digitizing.
A. Yes. A processor, wait, a processor. A processor coupled to analog digital converter and it says analog to digital converter for digitizing.
Q. Fair enough. And that probe, or the probe that is shown in Figure 1B is also shown in

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the other two provisionals, Kalokitis 3 and 4 and I can direct you to the page if you would like.
A. Okay.
Q. Which one are you looking at, four?
A. Exhibit 4.
Q. That is on Page 10?
A. Page 10 has a similar diagram.
Q. And in the other, in the, Kalokitis 3, it is on the pages are not numbered, it is the third page from the back.
A. Yes, I see.
Q. Do you see that?
A. I see the similar --
Q. Similar.
A. Image.
Q. And you recognize that image from your patents that are in suit, right?
A. Yes. Well, I don't have them in front of me, so I can't say I recognize them from my patents in suit.
Q. You don't recall?
A. Well, I'm not saying I don't recall. I'm saying you are asking me what is on the paper and I don't have the paper in front of me.

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Q. Okay, okay. At least in Kalokitis 4, I think it is in 3 as well, but Kalokitis 4 also talks about signal processing. In fact there is a lot of real estate in here on signal processing, right?
A. In which application?
Q. Kalokitis 4. Which is the '470.
A. Let me see here. Yes, there is, there is documentation here about signal processing.
Q. And same for Kalokitis 3?
A. No, I don't believe the, that they are the same treatment.
Q. So, you are saying, what we talked about earlier, that, I believe it was Mr. Berends was involved in the digital signal processing of Kalokitis 3, and we looked at Figure 3 in there and saw the digital signal processing board.
MR. DESAI: Objection, mischaracterizes his testimony. Is there a question pending?
BY MR. GOETTLE:
Q. So, is Kalokitis 3 disclosing digital signal processing?

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A. Kalokitis 3 has documentation about digital signal processing in it.
Q. Okay.
(Kalokitis Exhibit Number 6 marked for identification.)
BY MR. GOETTLE:
Q. The court reporter has just handed you what has been marked as Kalokitis 6.
A. Yes.
Q. That is a U.S. Patent Number 7,248,054.
A. Yes.
Q. And it is entitled Apparatus and Method For Detecting an Electric Field.
A. I see that.
Q. Okay. And you are the first named inventor on this patent?
A. Yes.
Q. Right. And, the patent lists five other inventors, correct?
A. Yes.
Q. And, those five other inventors are inventors that we saw on the Kalokitis 3 through 5, correct?

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A. 3, 4, 5. So, David Kalokitis appears on all three. Peter Zalud is in the group, David Berends is in the group, Kristos Polyzois is in the group. Frederick Vannozzi is in the group and Frank Lang is in the group.
Q. And if I did my math right, there is no inventor listed on the three provisional patent applications that aren't listed on the '054 patent, right?
A. Unique appearances of -- 3, 4, 5, 6, 7, is the grand total 7? 3, 4, 5, 6, 7, I believe that is the case.
Q. And that would make sense since they were all involved in developing the system for Con Ed that they would be listed on the '054 patent, right?
A. It makes sense that those gentlemen were, since they were inventors that they would be on this patent.
Q. Yes, they were inventors of the system that is described in the '054 patent?
A. Yes.
Q. Okay. And by the way the '054 patent is not a patent that Power Survey is

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asserting against Narda, right? Or Premier for that matter?
A. I do not believe the '054 patent is asserted.
(Kalokitis Exhibit Number 7 marked for identification.)
BY MR. GOETTLE:
Q. The court reporter has handed you what has been marked as Kalokitis 7.
It is U.S. Patent Number 8,598,864 entitled Apparatus and Method For Monitoring and Controlling Detection of Stray Voltage Anomalies.
A. Yes, I see that.
Q. And this is one of your patents, right?
A. Yes, it is.
Q. You are the first named inventor again?
A. Yes.
Q. And this is one of the patents that is being asserted against Narda and Premier, right?
A. Yes.
Q. Okay. And how does the inventorship

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on this patent compare with the '054 patent?
A. There is less names on the '864 patent than the '054.
Q. Actually, I just realized on the '054 there is one inventor missing that is on the provisional, and maybe you said this, and that was Mr. Schultz.
A. Okay.
Q. Correct?
A. I don't recall what I said.
Q. Oh, actually, ignoring whatever you said because I don't remember, either. But, Mr. Schultz is listed on one of the provisional patent applications, Kalokitis 5, and he is not listed on the '054.
A. That is correct.
Q. But he is listed on the '864 which is Kalokitis 7. Right?
A. Yes, he is.
Q. And, but Mr. Zalud is not listed on the '864 patent, right?
A. He is not listed on the '864 patent, that is correct.
Q. Or Mr. Berends?

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A. That is correct.
Q. Or Mr. Lang?
A. That is correct.
Q. So, do you know why those inventors on the '054 and various provisionals are not listed on the '864?
A. I do not.
Q. Do you know where Mr. Polyzois is now?
A. I do not.
Q. You don't know whether he is employed at Sarnoff?
A. I do not believe he is employed at Sarnoff.
Q. Did you ever have any understanding of where he may have been employed after Sarnoff?
A. At one point I knew the name of the company, but I cannot think of it now.
Q. Have you spoken or seen Mr. Polyzois since you have left Sarnoff?
A. I haven't seen him since I left Sarnoff.
Q. How about Mr. Schultz? Do you know if Mr. Schultz is still at Sarnoff?

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A. I don't believe Mr. Schultz is at Sarnoff.
Q. Do you happen to know where he went since he has left Sarnoff?
A. I have not seen Mr. Schultz since he left Sarnoff.
Q. Have you seen Mr. Schultz since you left Sarnoff?
A. No, I have not.
Q. Now, who is Mr. Paragano?
A. Mr. Paragano is a software, software type. Software type guy.
Q. Was he at Sarnoff with you?
A. Yes, he was.
Q. Is he still at Sarnoff?
A. I don't believe he is still at Sarnoff.
Q. Do you know where he went after Sarnoff?
A. I do not know.
Q. Have you seen or spoken to Mr. Paragano since, or Paragano since?
A. I have seen him.
Q. You have seen him?

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A. I have seen him.
Q. What were the circumstances of that?
A. We, um, we spoke about some other work that we might consider, we might consider proposing together.
Q. Can I, is the nature of that work confidential?
A. It is.
Q. How long ago was that?
A. Within the last 12 months.
Q. Can you disclose whether that work involved stray voltage?
A. It did not.
Q. And would your participation in that work be as a employee of Power Survey, or is this something on your own?
A. The work would be a Power Survey; it would be a Power Survey effort.
Q. How many times have you spoken to Mr. Paragano about this?
A. Once.
Q. Is that effort still ongoing?
A. Not really.
Q. Would Mr. Paragano, we have a

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partner at my firm called Paravano and that is why I keep messing this up.
A. Okay.
Q. Could it be that Mr. Paragano is working on the effort?
A. I don't know what Mr. Paragano is working on.
Q. Does anybody else at Power Survey -- was anybody else at Power Survey ever aware of this conversation you had with Mr. Paragano?
A. Yes.
Q. Who would that be?
A. Tom Catanese.
Q. Okay. Would Mr. Catanese be as aware of the effort as you?
A. I believe so. There is not an effort, right, it was a potential effort. So --
Q. I understand. Okay.
Do you happen to know or have an understanding about whether any of the inventors on the various patent applications that we have talked about today were involved in that initial project for Con Ed in the 2002-2003 time frame?
A. Would I know if any of the, which

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inventors are we speaking about, anybody on the table here?
Q. If it is easier, I will just run through the names.
A. No, I think I understand your question. If I can put it in my own terms, then I know I understand it.
So you are asking if the people on these applications were involved in the work that predated Jody Lane?
Q. For stray voltage, yes.
A. For stray voltage. Yes.
Q. Who?
A. Frank Lang and Fred Vannozzi.
Q. Would that be at least one reason that they would have been on your team, because they already had that background when Con Ed approached Sarnoff in 2004?
A. I think there are some assumptions in there. The, my team, when I led the development work I did, had people come in the and out of the matrix and I don't remember specifically in the early days who came in and out, you know, as we got started.

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The team reached about 70 members at conclusion.
Q. 70?
A. If you counted everybody who, you know, everybody who, you know, turned a, you know, turned in a time card, let's put it, from accounting through purchasing, through what have you, probably would hit that kind of number.
Q. And Mr. Vannozzi and Mr. Lang were involved in the early part?
A. Prior to Jody Lane. They were involved prior to Jody Lane.
Q. And they were also involved early on in the initial stages of the work for Con Ed after Jody Lane?
A. I don't remember their exact involvement or what their roles were at that point in time.
(Kalokitis Exhibit Number 8 marked for identification.)
BY MR. GOETTLE:
Q. The court reporter has just handed you what has been marked as Kalokitis 8.
A. Uh-huh.

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Q. It is U.S. Patent Number 8,577,631 and it is titled Method and Apparatus For Discrimination of Sources in Stray Voltage Detection.
A. Yes.
Q. And this names you as the sole inventor.
A. Yes.
Q. And you recognize this patent?
A. I do.
Q. Okay. Now, could you describe to me in general terms what the invention is in this patent?
A. Okay. So, when you are driving by sources of electric field, it would be helpful to differentiate those sources if you have any techniques to do that.
So this technique is able to look at a source of electric field, and look at the frequency components of that source of electric field. And allow one to, and the system will, you know, graphically show you those components such that you can potentially determine the source, you know, what is the, what is the object

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that is giving you these electric fields.
Q. And on that Column 1, around Line 44?
A. Column 1, okay. The lines aren't numbered so.
Q. Do you see, running down the middle is --
A. Oh, I'm sorry, I'm sorry.
Q. That is okay. There is a paragraph that starts "During"?
A. "During the remote detection of stray voltages a false positive may occur when an object emits an electric field."
Yes, I see the sentence.
Q. Okay. And, so, so the invention is trying to discern between an object that should have an electric field, you would expect to have an electric field, versus one that does not?
MR. DESAI: Objection, mischaracterizes the testimony.
THE WITNESS: The invention is to be able to use the signal components to gain an understanding of what may be the source of those signals.

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BY MR. GOETTLE:
Q. But by reference to a false positive in that sentence that you started to read --
A. Yes.
Q. That means like a false positive that the electric field is being caused by, the electric field is associated with an object that is energized that you normally would not think is energized, versus one that you would think would be energized. How is that for an unclear --
A. Well, false positive again, depending upon its usage and time and place, means different things.
Q. I just want to know what it means here.
A. No, I understand your question.
So, if you, if you look at the diagram here of what we are, you know, what we are showing we have accomplished is that an example of a Don't Walk sign which emits electric field at both the 60 hertz frequency, the 120 hertz frequency, the 180 hertz frequency and for all I know it may have made it at other frequencies, too; if you are able to, if you are

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able to judge that the primary or the greatest or that there is significant amounts of 120 Hertz energy coming from a streetlight and you look out the window of your detection system and you see there is a streetlight, right, there is a reasonable conclusion that the thing that is causing the signal to display on your machine is the Don't Walk sign.
Q. Because that, if it is displayed on your screen, that could be what you referred to as a false positive for a stray voltage when, in fact, it is not a stray voltage.
A. A false positive in the paradigm of stray voltage testing in the street is a signal -- a false positive is when you see something, when you see a signal coming from an object and you interpret it as a potential stray voltage hazard and after final review you learn that it is not a stray voltage hazard.
Q. Well let's take this example that you have in Figure 1. I think this is what you were referring to.
THE WITNESS: Figure 1.
BY MR. GOETTLE:

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Q. And I don't know how long it has been since you have seen this patent, so I can direct to you the description in the patent for it.
A. Okay.
Q. But am I right that what the figure is getting across is when you are inside 104, the truck.
A. Yes.
Q. And your system has detected an electric field.
A. Yes.
Q. It, the goal is that you would be able to tell without getting out of the truck that what has been electrified is the manhole cover or what has been, what has electric field is the crosswalk. Right?
A. The Don't Walk sign and the manhole cover are the two potential targets in the diagram.
Q. Okay.
A. And by looking at the, the individual components of the signal, you, you will get a better sense as to what it is that is

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providing the electric field.
So in the case of the manhole cover, which is purely energized by a stray or contact voltage, you would see one signature. And when you drive by the streetlight, I'm sorry, the Don't Walk sign, you would see another signature and you could potentially discriminate using that information.
Q. I see. And so that way, if you are, let's take Figure 1, but change it a little bit and say the manhole cover is not energized, okay?
A. If the manhole cover is not energized, okay.
Q. And your system in your truck shows you there is an electric field, indicative of a voltage somewhere. Using the system that you have disclosed in the patent you may be able to discern that that electric field would logically correspond to the crosswalk sign.
A. So I'm not sure I follow your exact logic, because you mentioned a manhole cover that has no voltage on it.
Q. Uh-huh.
A. So you have to kind of put your hand

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over the manhole cover, that is no longer part of the thought process.
Q. Exactly.
A. And so now you are saying I am driving by the streetlight, I'm sorry, the Don't Walk sign, and I get a signature that my experience, or the system, the system is processing, the system's processing can show us, is greater in the 120 hertz realm, which is our expectation of a Don't Walk sign that uses whatever type of lighting that, you know, that produces that, that you can then discern that using that technique.
Q. And, if the manhole cover is there and not energized under the circumstance you have just said, the person that, in the truck would have a good indication that even though I see a manhole cover there, odds are this signal that I'm seeing on my computer is being generated from the crosswalk sign. That would be the goal.
A. I don't know that the operator is cognizant of the manhole cover at all in that paradigm.
Q. Well, isn't somebody in the truck

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trying to figure out where stray voltages are?
A. The operator in the truck is looking for energized structures.
Q. Well?
A. So the manhole cover does not provide any signature to the system at all.
So, therefore, the operator is not cognizant of the manhole cover.
Q. Not from the system. From the system --
A. Oh, if he uses his eyeballs and he can see a manhole cover.
Q. That is what I'm saying?
A. Then the operator can use his eyeballs to see the manhole cover.
Q. That is what I am saying, the alarm goes off indicating there is an electric field, okay?
A. Yes.
Q. And he sees the manhole cover and maybe his first thought is boy, I wonder if it is that manhole cover that is generating this electric field, right?
A. Yes.

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Q. But from your invention he can look at his computer screen, he can say you know this signal looks more indicative of that crosswalk signal there.

MR. DESAI: Objection, lacks foundation, form.

Go ahead.

THE WITNESS: The operator sees the display, and at the same time he sees the Don't Walk sign with his eyeballs and he can associate the two and say that I have signal here, but I have enough detail now to tell me that it is probably coming from the Don't Walk sign.

BY MR. GOETTLE:

Q. And not from the manhole cover that I also see?

A. I think it is a stretch to pull the manhole cover into that.

Q. Really?

A. I do.

Q. Isn't that the point of this invention is to distinguish between the two different electric fields? Isn't that why you

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have that in the figure?

MR. DESAI: Objection, mischaracterizes the testimony, mischaracterizes the document.

THE WITNESS: I think the description here talks about two different cases. I think the case, I know the case that I am most trying to discriminate is that I have, as you see, this, this Don't Walk sign mounted on a pole, okay.

And the question I'm asking is, is that pole energized? Or is it the Don't Walk sign that is on the pole giving me a signal?

I don't care about the manhole cover.

BY MR. GOETTLE:

Q. Okay. So, in your invention, in this patent, the '631 patent, the operator in that truck from the display in the system will be able to discern that, oh, this electric field is being caused by the crosswalk sign and not by the pole, right?

A. That's the --

MR. DESAI: Objection,

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mischaracterizes the document, mischaracterizes the testimony.

THE WITNESS: So, I will restate it. This, the purpose of this invention is that when you drive by a streetlight which has the opportunity to be energized with stray or contact voltage and that same streetlight has a Don't Walk sign mounted to it and I get a signal in my system, I can look at the signal and I can say that that street lighting standard that I am driving by is likely giving me a signal from the Don't Walk sign and not from stray voltage being on that pole.

BY MR. GOETTLE:

Q. So, it is giving you, the system in this patent is giving you an indication of whether the electric field is associated with an anomaly or is associated with the crosswalk sign?

A. The system allows me to distinguish, potentially distinguish the source of electric field as to being a stray or contact voltage or a signature I recognize as something else. Like the Don't Walk sign.

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There is potential for more than one signature to come out of this work. A Don't Walk sign has a signal, a signature. Another object might have another signature. And to the extent that you can understand more than one signature, you can impart more decision making.

Q. Could you turn to Column 3?

A. Yes.

Q. At Line 22 there is a paragraph that starts, "The SVD system."

A. Yes.

Q. Is this SVD system that is described here, is this a Power Survey system?

A. It says the SVD System 102. So, it is whatever is pictured in 102. It is the stray voltage detection system.

Q. Okay. But, Power Survey calls its system that it sells SVD, right? You have the SVD 1000 and the SVD 2000, don't you? At Power Survey?

A. We have the SVD 2000. We use the SVD 2000 currently at Power Survey.

Q. Okay. So I'm just asking you, it is the same letters, SVD in the patent. I'm just

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asking, is this, is this paragraph referring to Power Survey's product?
A. Are you asking --
MR. DESAI: Objection, asked and answered.
Go ahead.
BY MR. GOETTLE:
Q. Or is it just coincidence that we use the same three letters to denote the system in the patent as Power Survey does for its product?
A. The implementation of this may or may not be on Power Survey's product.
Q. You don't know?
A. It can or cannot be on Power Survey's product.
Q. Oh. You have the technology; it is just sometimes you use it sometimes you don't?
MR. DESAI: Objection, mischaracterizes testimony.
THE WITNESS: I have an SVD 2000 system. I have technology captured in this patent that I can potentially use or not use in the SVD 2000 as I need or don't need it.

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BY MR. GOETTLE:
Q. Okay. So some, some Power Survey systems that are in trucks today getting driven around streets, some of them are using the invention you have disclosed in the '631 patent?
A. I didn't say that.
Q. I don't know what, I don't know what it is about my question that is making this so hard.
Is this invention, is the invention in this patent to discriminate sources of stray voltage being implemented by Power Survey?
A. In what context do you mean implemented?
Q. In any context.
A. I don't, I don't have a contract at this moment with a customer that requires the use of this, of this.
Q. Is it being used in any Power Survey system?
A. Is it being used in any Power Survey system?
MR. DESAI: Objection, vague.
THE WITNESS: It is not actively at

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this moment being used in a Power Survey system.
BY MR. GOETTLE:
Q. Are you testing the implementation of this invention in a Power Survey system potentially for future use?
A. At this moment, I am not testing that technology.
Q. Have you tested it?
A. I have tested the technology.
Q. And what were the results of the testing?
A. The test results are captured in this, in this patent, actually. There is photographs from the tests on Figure 5.
Q. Do you anticipate, do you or Power Survey anticipate using the invention in the '631 patent in the future?
A. It is hard to say at this point. It is, it really depends upon, you know, many factors in the marketplace.
You have air conditioning in your car. Do you intend on using it today? It is a capability, okay. It is a feature. It is a

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potential feature. So, in some applications you may want it, and some applications you may not want it.
Q. Have you shown the implementation of your invention in a Power Survey product to any customers or potential customers?
A. I don't recall demonstrating that capability to a customer or a potential customer.
MR. DESAI: Time for a break?
THE WITNESS: I could use five minutes.
MR. GOETTLE: Sure.
THE VIDEOGRAPHER: The time now is 2:06. We are going off the record. This is the end of Disk Number 2.
(Recess taken -- 2:06 p.m.)
(After recess -- 2:14 p.m.)
THE VIDEOGRAPHER: The time now is 2:14, we are back on the record. This is the beginning of Disk Number 3.
BY MR. GOETTLE:
Q. I think I forgot to ask you if you knew where Mr. Zalud is nowadays?
A. I believe he is at Sarnoff, but I

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don't know for sure.
Q. Have you talked to Mr. Zalud since you have left Sarnoff?
A. I haven't seen Peter in years.
Q. Okay. Now I'm referring to the '864 patent which is one of the three that are asserted in the litigation.
A. Yes.
Q. I believe you already told me what Mr. Schultz's contribution was. But, maybe not. I'm not sure actually.
Would you mind telling me what was Mr. Schultz's contribution to the invention?
A. I don't know, you know, the specifics of contributions. Mr. Schultz was a, is a long time engineer and was part of our team and we, and, you know, this was a group effort. So, his, he is a systems level guy.
So he had a lot of systems experience and participated in a lot of the discussions and spent a lot of time on the project.
Q. And do you know where Mr. Schultz is?

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A. I don't.
Q. Have you talked to him since you left?
A. I haven't seen Len Schultz since I left Sarnoff.
Q. Okay. And what was, if the you can recall, what was Mr. Polyzois' contribution?
A. Mr. Polyzois was a smart guy with a lot of education.
But his, he was very active in defining a lot of the features, you know, that one would need out there that appeared in some of these display figures.
You know, helping productize the design into something that would be attractive.
Q. User friendly, that kind of thing?
A. That kind of thing, yes.
Q. And have you talked to Mr. Polyzois since you have left?
A. I haven't seen him since before I left.
Q. Did he leave Sarnoff before you?
A. He did.
Q. Do you know where he went?

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A. I don't know.
Q. It feels like we already talked about Mr. Paragano.
A. Yes.
Q. Software type.
A. Yes.
Q. Do you know if Mr. Paragano is still at Sarnoff?
A. I don't believe he is.
Q. Do you know where he is?
A. I don't know where he is working.
Q. Do you know where he lives?
A. I think it says on one of these documents. I don't know if it is his current address.
Q. I see. Aside from what might be written on the document?
A. Aside from that, I have no independent knowledge of where he is.
Q. And actually keeping on the subject of the '864 patent, which is one of the patents asserted in the litigation, does, how does this patent disclose discerning a stray voltage from an electric field one would expect to be there?

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In other words, we just talked about the crosswalk and how you would expect the crosswalk to have an electric field, versus the manhole cover which you wouldn't. How does this patent discern between those two?
A. Let me try and understand that. How does this patent discern between, without reading this in detail, I don't even know which of the patents in the group, you know, what this patent produces. That is a complicated question for me.
Q. You have compared the claims of this patent to Narda's system, right?
MR. DESAI: Objection, lacks foundation.
THE WITNESS: I'm not a claims expert in understanding, you know, the exact application of these claims to Narda's system.
BY MR. GOETTLE:
Q. So, you don't have a belief one way or the other whether Narda is infringing your patent?
A. I believe the 8950 equipment is, is infringing on one or more of these patents. One

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or more patents that I have. I don't know that, I don't have all of the patents in front of me, so.

Q. Well, if it helps you I can pull them out.

A. Well, I'm, I will say that since the '864 is named in the suit, I believe that the '864 is infringed by the 8950 system.

Q. And how did you form that belief?

MR. DESAI: And Mr. Kalokitis, to the extent that answering requires you to disclose communications with your attorneys you should not do that. To the extent you can answer without doing that, go ahead.

THE WITNESS: Okay. My, I have some observations of some of the equipment and some of the claims around the equipment.

BY MR. GOETTLE:

Q. So, did you look at the claims of the, like Claim 1, for example, of the '864 patent and compare it to Narda's system?

A. To which system are you referring? The 8950?

Q. The 89 -- well let's start with the

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8950/10.

A. Yes, I have looked at Claim 1 and tried to interpret it in the realm of the 8950/10.

Q. Okay. And, Claim 1 requires generating a signal that corresponds to an electric field, right?

MR. DESAI: Objection, mischaracterizes the document.

THE WITNESS: Claim 1 is a long and complicated claim and there is a sentence in there that talks about generating an electric field. That much I can read.

BY MR. GOETTLE:

Q. Okay. Well, actually it requires generating a signal corresponding to an electric field, right? At line --

A. Yes, I read the words it says, "Generates a signal corresponding to an electric field."

Q. And it is your belief that Narda's system does that, the 8950/10, right?

A. Uh-huh.

Q. And then feel free to read --

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A. Depending upon your definition of signal.

Q. So, it might not?

A. No. No. I'm not saying that. I'm saying it generates a response or a signal, a signal to an operator or a, you know, some representation, some associated indicator or representation corresponding to an electric field.

Q. Okay. And the 8950/10 does that?

A. I believe the 8950/10 gives a representation of an electric field.

Q. And did you just testify that you find this claim kind of long and confusing?

A. No, not confusing. I said you quoted a few words out of a very long paragraph.

Q. I see. Okay. And feel free to read the whole thing. But somewhere in the claim, right around Line 60, requires identifying a voltage anomaly in the electric field.

A. I see around Line 60 it says, "Clarity of time domain samples produced as field strengths of each of the at least one sensor probes using the plurality of time domain samples

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and analyzes the field strengths to identify a voltage anomaly in the electric field."

Q. And it is your belief that the 8950/10 does that?

A. Yes.

Q. Okay. So what I want to know is where in the patent does it describe identifying a voltage anomaly in the electric field.

A. There is a lot here for me to read. Let's see. So, let me understand what you are asking. You are asking where in what, in the figures, or where in the text? I'm not sure I know how to answer your question.

Q. Anywhere in the patent. I just want to know where in the patent, anywhere, it describes that step.

A. I see it in the summary, on Line 38, 39.

Q. Line 38 and 39 of the summary in Column 2?

A. Let me go back to that. Column 2, yes. It is probably elsewhere in here.

Q. Because it is referring to the statement that says, "Analyzing the collected

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data to identify a voltage anomaly in the electric field."

Is that what you were referring to?

A. Yes. At Line 38 and 39 in the summary.

Q. Okay. And in your mind that is explaining how you do it?

A. No.

Q. Oh, okay.

A. That is where it is mentioned. On Column 12 around Line 30, there is some references to the, "It provides the interface operator with an opportunity to visually monitor and analyze incoming data."

Q. I apologize, Column 12 what line?

A. 30.

Q. Okay. So, it is the person that would be identifying the voltage anomaly in the electric field and not the, not the claimed apparatus?

A. Oh, no. The system provides alarm information, the system provides graphical information, it provides a number of indications that there is an anomaly, that there is an

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electric field anomaly.

Q. So, in the example that we were talking about earlier, with respect to your '631 patent, with the blinking crosswalk sign, will the system disclosed in this '864 patent be able to discern that that is not, that the electric field associated with that crosswalk sign is not a voltage anomaly?

MR. DESAI: Objection, lacks foundation.

THE WITNESS: I'm, I'm, I don't quite understand the question. Are you asking -- say it again.

BY MR. GOETTLE:

Q. Let me start over.

A. Okay.

Q. I will set it up a little better.

Let's take the scenario from your '631 patent where you are in the truck, but instead of using that system, we are using the system disclosed and described in the '864 patent, okay?

A. Instead of the source discrimination system, I am using the system described in the

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'864 patent. So I'm relying on the specification within the '864 patent.

Q. Right. Implementing the claimed invention in the '864 patent.

A. Okay.

Q. And the only electric field near the truck is the field created from the blinking crosswalk sign. Okay? Are you with me?

A. The only electric field in the vicinity is the signal coming from the blinking Do Not Walk sign.

Q. Yes.

A. Yes.

Q. Okay. Will this system be able to discern that that electric field is not created from stray voltage?

A. Would this system be able to discern that that electric field is not --

Would the system be able to discern that the electric field is not created from stray voltage. Is not -- I'm trying to think of what the depth of that is. Will not discern, I mean, the '631 patent describes discrimination of sources.

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So, so, certainly in that case there is an attempt in there to discern between the Do Not Walk sign and the streetlight.

To the system described in the '864 patent, the Don't Walk sign and what an energized streetlight, can it tell the difference between those two? Is that the question?

Q. You really don't understand my question?

A. I'm not sure I do. I mean, if that, I understand that question but I'm not sure I understand your question.

MR. DESAI: And for the record I don't understand the question, either.

MR. GOETTLE: I don't even understand why you are saying that. You want to object for form, you go ahead and object for form.

MR. DESAI: I will.

BY MR. GOETTLE:

Q. You know what, let's step back.

Does Power Survey's system implement the invention of the '864 patent?

A. Yes.

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Q. Okay. When you are in the truck with Power Survey's equipment --
A. Yes.
Q. -- and you drive under a streetlight that is on, or you drive by a blinking crosswalk sign, will the indicator associated with the system indicate that there is an electric field?
A. Yes. It will indicate that there is an electric field.
Q. And will the driver of that system or the user of that system be able to tell that that electric field is not the result of stray voltage?
A. Be able to tell that it is not the result of stray voltage.
MR. DESAI: Objection, form.
THE WITNESS: Something seems off about that conclusion.
So, if the there is stray or contact voltage on a structure, the system will respond with a, with a, an indication and will alert the user to the presence of that electric field.
If there is a Do Not Walk sign that

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is illuminated and it is emitting like electric field, then the system will indicate that electric field.
So, There are instances when that Do Not Walk sign will be interpreted by the system as a similar, as a similar signal as the stray or contact voltage anomaly might provide.
BY MR. GOETTLE:
Q. So, the system that implements the invention of the '864 patent cannot discern between a field that's associated with stray voltage versus a field that's not associated with stray voltage.
MR. DESAI: Objection, lacks foundation, form.
THE WITNESS: Ask it again. I'm sorry.
BY MR. GOETTLE:
Q. The system that implements the '864 invention --
A. Yes.
Q. Cannot discern between electric fields created by stray voltage versus those that

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are not created by stray voltage.
MR. DESAI: Same objections.
THE WITNESS: The system provides an alarm and indication when high electric field or anomalies in electric field are sensed and stray voltage is a source of that anomalous electric field, and there are other sources that can potentially give an indication.
BY MR. GOETTLE:
Q. An indication of what?
A. That can cause the system to indicate, to alarm.
Q. So, you are driving down the street using the system that is claimed in the '864 patent.
A. Uh-huh.
Q. And the alarm goes off. And the user of that system doesn't know, without taking in more information, whether the alarm is going off because there is a stray voltage or a crosswalk sign that is blinking?
A. There are conditions where that can happen.
Q. And so there are other times when

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the operator of the system, without looking around or taking in any other information, will know that the alarm is going off because it is caused by a stray voltage?
A. The conditions where the operator is driving by something and he gets an alarm, and the alarm is not due to a stray or contact voltage, and then what was the next piece? I am trying to put it all together.
The system indicates anomalous electric field that is usually associated with stray voltage or contact voltage.
Q. But doesn't it also indicate electric fields caused by the traffic light the truck is going underneath, or the crosswalk sign that is blinking or the streetlight?
A. It, not necessarily streetlights.
Q. But the traffic light?
A. If the traffic light exhibits a similar signature, then the operator does not get a clear representation as to which of those things is providing it.
Q. Because the system doesn't know, it doesn't know what the electric field, what is

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causing the electric field? It just knows that there is an electric field, right?
A. It, the system provides an indication that there is an electric field. And in the, in the arenas of where the system has operated, much of those anomalies, much of those anomalous electric fields are associated with stray and contact voltage.
Q. That is because the person using the system or somebody else has to figure that out, right? You can't, he doesn't figure out whether it is an anomalous voltage creating the electric field? He has got to look around and say, oh, the alarm is going off, I wonder what is creating that. Is there anything around that that makes sense to be creating that, right?
MR. DESAI: Objection.
BY MR. GOETTLE:
Q. You can't just look at the screen on the computer and say oh, there is a stray voltage.
MR. DESAI: Objection, form.
THE WITNESS: The indication on the screen and the alarms are an indicator of the

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presence of a stray or contact voltage anomaly which sometimes, which sometimes you get an indication that you cannot find an anomalous condition as a result of it.
You know, anomalous, anomalous is, I'm not sure anomalous is -- so, an elevated potential is a common cause of the electric field. And that is what the system is sensing and alarming and reacting to.
BY MR. GOETTLE:
Q. An elevated potential?
A. Yes. Stray or contact voltage which is elevated potential. There is a source, a system alarms to that source.
Q. The elevated potential is what is creating voltage, right?
A. The elevated potential.
Q. Creates it?
A. The potential is voltage, elevated voltage creates the signal.
Q. Okay. And so your invention, if I am hearing you right and at least the impression I think you are trying to give me, your invention can detect when an electric field is caused by

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stray voltage?
MR. DESAI: Objection, mischaracterizes the testimony.
THE WITNESS: My invention can detect anomalous fields that come from energized stray or contact voltage energized structures.
BY MR. GOETTLE:
Q. Absolutely it can. But it can't discern when it is caused by an anomalous voltage versus when it is caused by a voltage that you would expect to be there. It will detect anomalous voltage because it is creating an electric field, right?
A. The anomalous voltage creates an electric field, yes.
Q. But it will also detect the electric fields created by things that should create electric fields, like blinking crosswalk signs, right?
A. Yes.
Q. And it doesn't know which is which, right?
A. The, the system in the '864 patent

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does not discriminate between the two.
Q. Are you familiar with fast Fourier transforms?
A. Yes.
(Kalokitis Exhibit Number 9 marked for identification.)
BY MR. GOETTLE:
Q. The court reporter has just handed you what has been marked Kalokitis 9.
A. Yes.
Q. U.S. Patent Number 8,482,274?
A. Yes.
Q. And naming you as the first inventor along with other inventors, right?
A. Yes.
Q. In fact, the same inventors as Kalokitis 8, or 7, excuse me.
A. Seven.
Q. This is one of the patents that Power Survey is asserting against Narda and Premier, right?
A. I believe it is.
Q. Okay. I didn't realize the claim limitation is different in the '864 so that is

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why I handed you this. Can you turn to Column 26.
A. Column 26.
Q. In the middle of the claims.
A. On 26, okay.
Q. Claim 4.
A. Claim 4. I am reading Claim 4. Okay.
Q. At the time of the invention, was it well known to use a fast Fourier transform at a rate that is a multiple of the expected frequency of an electric field?
A. I don't believe it was well known but I, I really can't date back to the origins of this and what was the status of signal processing, you know, dos and don'ts.
Q. So, I take it from that answer, then, you or your co-inventors invented this idea of sampling at that rate?
MR. DESAI: Objection, mischaracterizes testimony. You can answer.
THE WITNESS: I, our specification talks about applying a fast Fourier transform at a rate that is the multiple of the

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expected frequency pertaining to electric fields.
So, that was part of our, part of our specification.
BY MR. GOETTLE:
Q. Okay. Was it inventive?
A. Was it inventive?
Q. When you guys, when you started doing that in the stray voltage detection system that you developed for Con Ed?
MR. DESAI: Objection, lacks foundation.
THE WITNESS: I think you are in a legal realm that I'm not.
BY MR. GOETTLE:
Q. Were you the first to do it? Were you the first to think of it?
A. I'm not sure how I would know that.
Q. Well, do you know that if you were the first to invent the mobile apparatus in claimed in Claim 1?
A. Yes, we were the first to invent the mobile apparatus claimed in Claim 1.
Q. So, I want to know if you have the

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same answer for Claim 4.
Were you the first to invent the mobile apparatus that is claimed in Claim 4?
A. The mobile apparatus applying that feature in Claim 4, for sensing stray and contact voltage anomalies, I think that is a yes.
Q. Okay. Now, just looking at Claim 4, were you the first to use a fast Fourier transform at a rate that is a multiple of an expected frequency of an electric field?
MR. DESAI: Objection, lacks foundation.
THE WITNESS: First to use. Well, I can say since we were the first ones to build a mobile apparatus for detecting stray and contact voltage, and that is a feature within that, then we would be the first ones to use that feature in a mobile apparatus for detecting stray and contact voltage.
I'm concluding that from reading this. I don't have an independent knowledge of, I don't, I don't know how else to answer that.
BY MR. GOETTLE:

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Q. You don't know?
MR. DESAI: Objection, mischaracterizes testimony. Asked and answered.
THE WITNESS: I know that we use that technique as part of the mobile apparatus we developed for stray and contact voltage.
BY MR. GOETTLE:
Q. Okay. Do you have a belief one way or the other on whether the 8950/10 device copied Power Survey's device? Is a copy of Power Survey's device?
A. Do I believe the 8950/10 copies Power Survey's device.
I believe the 8950/10 is well described in the patents we have asserted.
Q. Do you think Narda copied Power Survey when it created the 8950/10?
A. Do I personally think that there was, there was -- I believe the similarities are striking.
Q. So, if we ever get in front of a jury and you are asked this question about

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copying, that is going to be your answer? I think the similarities are striking?
A. I don't know what my answer would be. I would have to think about, I would have to think about, you know, how one asserts, asserts that, and under what conditions it is, it gets asserted.
Q. Do you know what the name of the sensor probe Narda uses in the 8950/10? Do you know what Narda calls it?
A. The, the, the core sensor that is within the, in the 8950, I believe, yes, I believe it is an EFA sensor.
Q. It's the EFA 300, that sound familiar?
A. It does.
Q. Do you know how old the EFA 300 is?
A. It is quite old.
Q. And, do you have an understanding of whether the EFA 300 has been modified in any way when it was placed in the 8950/10-unit?
A. I don't have knowledge of whether the 89, the EFA 300 was modified when it was placed inside the 8950/10.

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Q. And when you say that the EFA 300 is old, is it older than Power Survey's system?
A. I don't know.
Q. You don't know?
A. I don't know.
Q. You don't know whether the EFA 300 was offered for sale and sold prior to 2004?
A. I believe, I believe it was sold prior to that.
Q. How about prior to 2002?
A. I don't know.
Q. How about prior to 2000?
A. I don't know.
Q. How about 1998?
MR. DESAI: Objection, asked and answered.
BY MR. GOETTLE:
Q. You don't know?
A. If the I didn't know in 2002, I wouldn't know in 1998.
Q. If you learned that the EFA 300 had been on sale for a number of years before Power Survey's, before Con Ed even approached Sarnoff, and it is not modified in any way when it is used

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in the 8950/10, would that change your belief about copying?
A. I don't know that I, that I specified a belief about copying.
Q. Let's look at your Declaration. You might know better than me, oh, there it is.
You refer to a striking resemblance, let me see if I can find it. Paragraph 23?
A. Yes.
Q. And then at Exhibit H, you have side-by-side, it says Exhibit H but I think that might be a typo. I think it is Exhibit F. Do you have the side-by-side picture?
A. Yes.
Q. And, maybe I read too much into this. But when I read what you wrote in Paragraph 23, and look at the pictures, I think you are, the implication there is a belief on your part that Narda copied Power Survey. Is that the wrong implication from what you have written here, what you are showing in Exhibit F?
A. I think the words are pretty clear. There is a photo there of two systems that there is a striking resemblance.

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Q. But that is it? That is all --
A. Well, the, the, photo of the SVD 2000 and the design of that predates the 8950/10.
Q. So, but you don't believe that Narda copied even though there is a striking resemblance?
A. I'm not sure the use of my word copy is relevant. I don't know.
Q. Well, here is why I think it might be relevant. Because all over Power Survey's briefing for a preliminary injunction they refer to Narda as a copycat throughout.
A. Okay.
Q. And so I think Power Survey is making it relevant. And, in support of those statements about being a copycat, they refer to your Declaration and this picture.
A. Okay.
Q. And so I think it would be fair for us to be able to characterize your opinion for the court on your belief on whether Narda copied.
So that is why I'm asking you if the implication from Paragraph 23 and the picture you show in Exhibit F is to be, in your belief, that

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Narda copied.
A. This is the basis for what you are, what you have said is in the PI, that it is our interpretation that it is copied, that it is a copy.
Q. So, it is your belief, then, that Narda copied?
A. Yes.
Q. Even though the EFA device has been around for a long time prior to Power Survey's?
A. EFA device is just a sensor head, no more.
Q. So, it is an insignificant part of the system?
MR. DESAI: Objection, mischaracterizes the testimony.
THE WITNESS: It is a piece, it is a part.
BY MR. GOETTLE:
Q. Is it a significant piece or an insignificant piece, or how would you characterize it?
MR. DESAI: Objection, form.
THE WITNESS: I would characterize

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it as a piece of the system. A system component.
BY MR. GOETTLE:
Q. No more significant than the bolts that hold the device onto the truck?
A. It is more significant than the bolts that hold the device on the truck.
Q. Okay. So what in the Power Survey system, what would you characterize as the significant pieces of the system?
A. The significant pieces of the system are the sensor head, the signal processing equipment, user displays, system software, computer, mounting system, mounting tripod, mounting arrangement. There may be more but that is a reasonable assessment.
Q. Okay. So sensor head that in Narda's system would be the EFA 300, right?
A. In the 8950 the sensor head is the EFA 300, yes.
Q. In the 8950/10.
A. Yes.
Q. Okay. Narda didn't copy that?
A. Didn't copy what?

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Q. The sensor head, didn't copy Power Survey's sensor head. I thought we had agreement on that at least?
A. Right.
Q. We have agreement on that?
A. The EFA 300 does, is not a copy of the, of the sensor head.
Q. Okay. How about the DSP equipment? Did Narda copy Power Survey's DSP equipment?
A. No.
Q. How about the user display system? Did Narda copy -- I'm sorry, just to make sure my question is clear for the record.
A. There are striking resemblances between the user display and our display.
Q. Striking, I'm sorry?
A. Copying, copied functionality.
Q. Like what?
A. An alarm.
Q. We copied the fact that there is an alarm?
A. There is a whole, there is probably a number of features, but off the top of my head without looking at the documentation it would be

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hard to compare them. But the user display has a number of features that, you know, the implementation is much like the SVD 2000.
Q. So, the user display?
A. The user display is one, is one element.
Q. Okay. And the alarm is another one?
A. And the alarm is another one.
Q. Anything else that you can recall?
A. In just that component?
Q. Yes. In the user display, what you referred to as the user display system.
A. The thresholds, off the top of my head, you know, it would be hard to get them all, but.
Q. By a threshold you mean the threshold at which the alarm would go off?
A. Yes.
Q. Narda copied Power Survey in setting those thresholds?
A. In putting that functionality into a stray and contact voltage detector.
Q. The functionality of having an alarm go off when you reach a threshold?

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A. In a stray and contact voltage mobile detector, yes.
Q. Narda copied that? That is what you are saying?
A. Yes.
Q. Mounting tripod I think I got that. That is basically the picture that you have in Figure 9.
A. That is correct.
Q. Mounting arrangement is that different from the mounting tripod?
A. Mounting it to a mobile platform. A motor vehicle is part of the mounting arrangement.
Q. Uh-huh. Does Power Survey's mounting tripod use the trailer hitch on the truck?
A. Yes.
Q. Is the trailer hitch on trucks usually in the front or the back?
A. It is usually in the back. But it can be in the front.
Q. You have, Power Survey has access to an 8950/10 device, right?

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MR. DESAI: Objection, lacks foundation. Go ahead.
THE WITNESS: I have some of the components.
BY MR. GOETTLE:
Q. And so, when we talked about, briefly about this earlier, but you have compared the device to the claims of your patents, and formed a belief of infringement, right?
A. I have made some visual observations on some of the components. I don't have drawings or designs.
Q. Okay. But you, I think we already established this, but you looked at the 8950/10 in some form, whether on documentation or with the device itself, compared it to your claims and formed the belief of infringement, right?
A. Yes.
Q. Okay. And then you discussed your belief with Mr. Fugate, Dr. Fugate?
A. Yes.
Q. What did you and Dr. Fugate talk about?
MR. DESAI: Mr. Kalokitis, to the

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extent your conversations were work product with your counsel present, you should not answer the question. If you can answer the question without that, with that in mind, go ahead.
MR. GOETTLE: Are you claiming work product on what is in Dr. Fugate's Declaration?
MR. DESAI: Not on what is in Fugate's Declaration.
MR. GOETTLE: Dr. Fugate stated that his opinion is based in part on his conversation with the witness.
MR. DESAI: Feel free to ask Dr. Fugate about his conversations.
MR. GOETTLE: I'm going to ask Mr. Kalokitis about the conversations.
MR. DESAI: Mr. Kalokitis has a privilege.
BY MR. GOETTLE:
Q. So, just so I understand, you are going to claim privilege even though Dr. Fugate has said he relied on what Mr. Kalokitis told him in forming his opinions.

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MR. DESAI: I am not asserting privilege over anything that Dr. Fugate is going to talk about regarding his conversations with Mr. Kalokitis.
I'm saying Mr. Kalokitis needs to keep in mind that for the conversations that he had with attorneys present, he should not disclose those conversations.
MR. GOETTLE: So let me narrow my question.
BY MR. GOETTLE:
Q. What did you and Dr. Fugate discuss with respect to your belief that the 8950/10 device infringes your patents.
A. My discussions had my attorneys present at all times. So my interpretation is that I can't discuss that.
MR. GOETTLE: Are you instructing the witness not to answer my question.
MR. DESAI: I am.
MR. GOETTLE: Okay. Well, because I'm going to forget by the end of the day, we are holding the deposition open, and we are going to go to the court and we are going to

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get the court to instruct that the witness answer these questions which are entirely appropriate and not calling for any work product or any privilege.

MR. DESAI: It is work product. How is it not work product? Our attorneys working with the client to develop infringement positions. How is that not work product?

MR. GOETTLE: So, I'm going to hold the deposition open. I'm not going to get into an argument with you. To me this is an argument that should not happen, because there is no way that this is protected. But I'm not going to get into it. We are going to hold the dep open and then we will see what the court says.

BY MR. GOETTLE:

Q. Do you have an understanding of Dr. Fugate's areas of expertise?

A. I do.

Q. Does he have as much experience as you in the field of stray voltage detection?

A. I don't know.

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Q. You didn't ask him?

A. I, I don't know, if he has as much experience as me. I, I don't believe he has as much experience as I do in stray voltage detection.

Q. Did you describe to Dr. Fugate the claims that you have a belief are infringed?

MR. DESAI: Again, I will just tell you there was no conversations between Mr. Kalokitis and Dr. Fugate without attorneys present.

MR. GOETTLE: Whether attorneys are present or not does not matter if Dr. Fugate relied on the conversations in forming his opinion. It does not matter.

MR. DESAI: You are not asking about Dr. Fugate's opinions, you can ask Dr. Fugate about his opinions.

BY MR. GOETTLE:

Q. Can you turn in Kalokitis 2, which is Dr. Fugate's Declaration?

A. First 10 pages?

Q. Yeah, Paragraph 23.

A. Paragraph 23.

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Q. Sorry?

A. Yes, I see Paragraph 23.

Q. If you wouldn't mind reading, I'm going to ask you if you agree.

A. After reviewing the patents in suit.

COURT REPORTER: I'm sorry, I have to take down what you say.

THE WITNESS: I'm sorry, I'm just reading, moving my lips.

So, I see his definition of ordinary skill in the art would include a Bachelor of Science in Electrical Engineering or related field and one on two years of experience in designing devices for measuring electromagnetic phenomena such as those associated with power systems. I see that is his definition or belief of a person of ordinary skill.

Q. Do you agree?

A. Yes.

Q. Electromagnetic phenomena, do you see that phrase?

A. Yes.

Q. What does that mean?

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A. Electric fields.

Q. Does it include a magnetic field?

A. It says electromagnetic, so the implication of that word electromagnetic is that that magnetic may be included.

Q. So, somebody could be a skilled artisan in the field of your patents if they design devices for measuring magnetic phenomena, or magnetic fields?

A. It is possible, but not guaranteed.

Q. Why do you say it is possible?

A. Electromagnetics is a field of science. And you could, you could, you could have greater understandings in one direction of electric field or magnetic field, or electromagnetic field.

And, I think there is some distinctions that may be within those realms that may or may not be relevant to the task at hand.

Q. Are the problems associated with detecting electric fields similar to the problems associated with detecting magnetic fields?

A. They may or may not be. It depends on the environment you are working in and the

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signals you are trying to detect and what is around you.
Q. So, they might be or they might not be?
A. They may or may not be similar. It depends on the arena you are, you are working in.
MR. DESAI: Dan, we have been going for about an hour.
MR. GOETTLE: Do you want a break?
THE WITNESS: Sure.
THE VIDEOGRAPHER: The time is 3:15, we are going off the record.
(Recess taken -- 3:15 p.m.)
(After recess -- 3:30 p.m.)
THE VIDEOGRAPHER: The time now is 3:30, we are back on the record.
BY MR. GOETTLE:
Q. Okay. So, thinking about your, the inventions in your patents, you have two of the patents, I can give you the third if you want it.
A. Okay.
Q. But what I would like to know is, were you and your team the first to invent an electric field probe?

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A. The first to invent an electric field probe, no.
Q. Were you the first to think of using an electric field probe in a mobile environment?
A. We were the first to think of using a mobile electric field detection system for finding stray and contact voltage.
So, depending upon what you mean by mobile environment and what you are trying to do with it, it could mean a number of things.
Q. Well, but wasn't the Sarnoff, the pre-Jody Lane-Sarnoff project, didn't that have a portable which would mean mobile?
A. No, portable and mobile are not the same.
Q. They are not the same.
A. They are not the same.
Q. What is the difference?
A. So, portable means that it is easily transported from one spot to another. Portable phone. Well, that is a bad example. But, portable means you can carry it from one spot to another. Mobile means that it is designed to operate in motion.

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Q. I've got to write that down. So, the demonstration that you saw in the 2002, 2003 time frame, that involved a handheld device only?
A. Yes.
Q. Did you witness any demonstrations that used a cart on which the device was mounted that got pushed along a track?
A. I had, in one of these documents there is photos of us testing something on a cart. Is that what you are referring to?
Q. I don't know. I didn't know it was in -- no, it wasn't what I was referring to. But, maybe it would be worth, I was kind of wishing I was referring to it.
But at least in terms of your witnessing of the probe in the 2002, 2000 --
A. I remember a handheld probe. I don't remember a mobile implementation of it. I remember something with a handle.
Q. Would mounting a probe on a cart and wheeling it to detect electric fields, would that be a mobile application?
MR. DESAI: Objection, lacks foundation.

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THE WITNESS: It is difficult to say without looking at the whole system.
You know, if there is a system that is designed to be mobile and it is moving and that is the way it works, perhaps. But, that is, that is ambiguous.
BY MR. GOETTLE:
Q. So, if the system is on a cart and being pushed and while it is being pushed it is able to detect electric fields, that might be nearby, that would be a mobile application?
A. I guess depending upon your definition of mobility, it is one, it is one possibility.
Q. It is possible that in such an arrangement it would be designed to operate in motion, right?
A. If someone designs a system to operate while it is mounted to something that is mobile, then I believe the definition, if they have that design, is that they have a mobile system.
Q. Okay. And did such mobile systems to detect electric fields, no matter what the

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source, but did such mobile systems exist prior to your invention?
A. I don't know.
Q. Have you ever seen an electric field detectors that workers can wear on them to detect electric fields?
A. Yes.
Q. Would you consider that a mobile detector?
A. No.
Q. That would only be a portable detector?
A. Yes.
Q. Were you the first to invent using a electric field probe on a vehicle?
A. We were the first to use an electric field probe on a vehicle for the purpose of finding stray and contact voltage anomalies.
Q. But not the first to invent using an electric field probe on a motor vehicle for other purposes?
MR. DESAI: Objection, lacks foundation.
THE WITNESS: I would expect that

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electric field probes have been around for a long time, and they could appear in any number of locations.
BY MR. GOETTLE:
Q. Before you began your work when, after Con Ed came to Sarnoff and asked for help after Jody Lane, did you do any searching on what was already out in the, in technology that you might be able to use?
A. We had an experienced group and we, we relied on our resources to, to evaluate approaches and, you know, this was our decision was to go down this path.
So, specific literature searches or whatever, I don't recall. I don't recall what, you know, ten years ago what was all of the factors that went into picking an approach.
Q. Do you know, did helicopters use electric field sensors to detect power lines prior to your invention?
A. Did I know that prior to my invention that helicopters used electric field sensors to detect power lines? I don't know if I knew that then.

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Q. Do you know it now?
A. I do.
Q. Do you know whether, prior to your invention, cranes used electric field sensors to detect power lines?
A. I don't know if I knew that then.
Q. Do you know it now?
A. I do.
Q. Do you know that airplanes use electric field sensors to detect power lines prior to your invention?
A. I don't know if I knew that then.
Q. Do you know it now?
A. I don't, I don't have much information about airplanes, of that application regarding airplanes.
I know, I know the, I don't know the, I don't know what is used on airplanes.
Q. How about boats, are you aware that boats, prior to your invention, used electric field sensors?
A. I know that there are many things that use electric field sensors.
So, if we go down a list of

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everything that has ever used an electric field sensor, my iPhone probably has one.
Q. Well your iPhone is not prior art, though, right?
MR. DESAI: Objection, lacks foundation.
THE WITNESS: I'm, I'm not sure of the implication of prior art in this paradigm. Everything is built out of something.
BY MR. GOETTLE:
Q. Were you the first to couple a sensor probe to an electrically noninterfering support frame mounted to a vehicle?
A. We were the first to combine a vehicle, noninterfering support frame on a vehicle to sense electric fields associated with stray and contact voltage.
Q. But the rub there it is to sense stray and contact voltage, right? That is your point. You were the first to use a probe to sense stray and contact voltage, and, therefore, of course, adding in --
MR. DESAI: Objection,

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mischaracterizes testimony.
BY MR. GOETTLE:
Q. -- adding in an electrically noninterfering support frame, of course you would be the first to do that as well, right?
MR. DESAI: Objection, mischaracterizes testimony, mischaracterizes the document.
BY MR. GOETTLE:
Q. Your point is, you are the first to use a sensor probe to detect stray and contact voltage, right?
MR. DESAI: Objection, mischaracterizes testimony. Mischaracterizes the document. You can answer.
THE WITNESS: We are the first to use a noninterfering mount on a mobile system to detect stray and contact voltage. It is a combination of things.
BY MR. GOETTLE:
Q. Okay. I hear you it is a combination of things. I would like you just to answer the question I'm asking?
A. Break it down, okay.

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Q. My question is are you the first to couple a sensor probe to an electrically noninterfering support frame mounted to a vehicle?
MR. DESAI: Objection, asked and answered. You can answer.
THE WITNESS: The first to use, I'm sorry.
BY MR. GOETTLE:
Q. Are you the first to mount a sensor probe on a vehicle using a nonelectrically --
A. A sensor probe of any type, no, we are not the first to mount a sensor probe on a vehicle.
Q. An electric field sensor probe?
A. We are not the first to mount an electric field sensor on a vehicle.
Q. Using a nonelectrically interfering support frame?
A. Using a nonelectrically interfering support frame.
Q. Did you invent, are you the first to invent a sensor probe that uses parallel electrodes to sense electric fields?

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A. No.
Q. Are you the first to digitize signals corresponding to electric fields?
A. No.
Q. Are you the first to use an indicator to alert the presence of an electric field using an electric -- let me start over I lost my thought.
Are you the first to use an indicator that alerts a user to the presence of an electric field in conjunction with a electric field sensor probe?
A. We are the first to use an electric, a mobile electric field sensor to indicate an electric field associated with a stray or contact voltage anomaly.
Q. Okay. But that is not my question.
A. Yes, I'm --
Q. My question is are you the first to use an indicator that indicates the presence of an electric field.
A. I'm not the first to use an indicator that indicates an electric field.
Q. You are, I think the term is senior

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member of the IEEE?
A. Yes.
Q. And what does senior member mean?
A. Senior member is a person which has made significant contributions to the engineering society. And has experience in engineering fields.
Q. I should have probably started with this. What is the IEEE?
A. The Institute of Electrical and Electronics Engineers.
Q. And what does the IEEE do?
A. It is a professional society for many matters of engineering.
Q. How long have you been involved with the IEEE?
A. Since the early '80s, maybe even in college.
Q. Okay. How long have you been a senior member?
A. Of the IEEE? Quite a while. I don't recall. A good while.
Q. And is it, was there one significant contribution that kind of puts you into the

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echelon?
A. No.
Q. What were the contributions?
A. It is a, there is an application process, a recommendation process, and a review process within the IEEE organization, and then there is the award of the grade.
Q. Have you had other positions at the IEEE aside from senior member?
A. I wouldn't characterize it as a position. It is --
Q. I didn't know what the word to use, title? Honor?
A. Well, it is a membership grade. It is called a membership grade.
Q. Okay.
A. So you start out as a student member, become a general member. I am now a senior member.
Q. Okay. Have you also done work on behalf of the IEEE as part of a working group?
A. I have participated in the working group. I don't believe that work is characterized as being on behalf of the IEEE.

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Q. I see. But you participated in one working group?
A. I have participated in one working group.
Q. And what working group is that?
A. The P1695 working group.
Q. And, what is, what is the goal of that working group?
A. The goal of that working group is to develop a trial use guide for assessing voltages at publicly and privately accessible locations. I am hoping I got all of those words correct. Because it is a long title.
Q. How long have you been working as part of that working group?
A. I would say since the '06 or '7 time frame.
Q. Seven or eight years?
A. Yes. Seven or eight years, yes.
Q. And so you are a member of the working group?
A. I am.
Q. And as part of that work or any involvement with the IEEE have you become

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familiar with any of the IEEE standards?
A. Yes.
Q. What is an IEEE standard?
A. A standard, typically, is a specification on how a system works, or on how a task may be carried out.
Q. And how are standards promulgated?
A. There is a standards association, a standards body, within the IEEE that has a process for that.
Q. So, would, is the, the goal for your working group to eventually be a standard?
A. The goal of the working group is to produce a trial use guide.
Q. That would be different from a standard?
A. Yes.
Q. What is the difference?
A. A standard is very rigorous and takes quite long to complete and that is it.
Q. And the seven or eight years, that sounds pretty rigorous to me.
A. It is not done.
Q. And when the standards, the IEEE

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standards are promulgated are they publically accessible?
A. IEEE Standards are publications of the IEEE. So, given that they are publications I expect there is access to them.
Q. Would, we talked earlier about what a skilled artisan is in this field of your inventions. Do you recall that?
A. Yes.
Q. Would a skilled artisan be familiar with the IEEE standards?
A. In some cases. Depends on their work. In some cases no, in some cases yes.
Q. Depends on their work?
A. Depends on their work.
(Kalokitis Exhibit Number 10 marked for identification.)
BY MR. GOETTLE:
Q. The court reporter has just handed you what has been marked as Kalokitis 10.
A. Okay.
Q. It is IEEE Standard 644 and it is titled IEEE Standard Procedures For Measurement of Power Frequency Electric and Magnetic Fields

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From AC Power Lines.
A. Yes.
Q. Have you ever seen this standard before?
A. I know its reference, but I don't believe I have read it in detail.
Q. I'm sorry, I missed the first part of your answer?
A. I know the reference. I recognize the 1994 reference. But I don't know that I have, I don't recall reading it in detail.
Q. Do you recall if you had known of the existence of this standard at the time of your invention?
A. I don't recall if I knew of the existence of this standard.
Q. You don't, I'm sorry, you don't recall?
A. I don't recall if in, at the time of the invention, if I, if I knew much about this standard.
Q. And you see on the front page where it says Approved, December 13th, 1994.
A. I do.

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Q. Well, let me step back. These are the types of IEEE standards that we have been talking about, right?
A. Well, not exactly.
Q. Oh.
A. We have been talking about two things. We have been talking about a trial use guide and we have been talking about IEEE Standards.
Q. But the trial use guide I thought we established was not going to be an IEEE Standard.
A. I don't, I don't believe it is, it is targeted as a standard.
Q. Okay. So just referring to IEEE Standards.
A. Yes.
Q. This is a typical IEEE Standard, correct?
A. Yes.
Q. Okay. And, that Approved December 13th, 1994, is an indication that this was promulgated in 1994 or soon after, right?
A. Yes.
Q. And would have been available to

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skilled artisans as of about that time, right?
A. Yes.
Q. We talked earlier about the EFA 300, Narda's sensor probe?
A. Yes.
Q. Have you, have you seen any user manuals for the EFA 300?
A. Yes.
Q. Would you have seen any of those user manuals prior to your invention?
A. I don't believe I would have seen an EFA 300 user manual prior to my invention.
Q. It is kind of a stupid question because I think you testified earlier that you actually didn't know about the EFA 300 prior to your invention; is that right?
A. I did not know of the EFA 300 product prior to my invention.
Q. Actually did you know of any EFA product prior to your invention?
A. Did I know of any Narda EFA series products at the time of my invention, no.
Q. Did you know of any Wandel Goltermann products prior to your invention?

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A. No.
Q. Had you heard of Narda prior to --
A. Yes.
Q. Do you know why you had heard of Narda?
A. Narda makes a lot of microwave components.
Q. I see. So it is part of your work as, in the microwave group, you would have used Narda components?
A. I saw Narda components in the microwave industry.
Q. Okay. I think I am done but rather than sit here, do you think I could have five minutes just so I could check my notes and --
MR. DESAI: Sure.
MS. ZIBAS: I have a few questions.
THE VIDEOGRAPHER: The time now is 3:58, we are going off the record.
(Recess taken -- 3:58 p.m.)
(After recess -- 4:06 p.m.)
THE VIDEOGRAPHER: The time now is 4:06. We are back on the record.
BY MR. GOETTLE:

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Q. Earlier today we talked a lot about the inventors on the various patent applications and whether you had any communications with them since you have left Sarnoff.

Are you aware of anybody else talking to any of the inventors with respect to this lawsuit?

A. I'm not aware of anyone else talking to the inventors with respect to this lawsuit.

Q. I'm looking at Power Survey's memorandum brief, oh, go ahead.

A. There was a, there was a point where I think someone had to contact them about one of these, some application or something.

Q. Do you recall --

A. Maybe through the prosecuting, I don't know. But I think there might have been some --

Q. Do you recall any more details about that?

A. I think there was, there was a communication with the, with Ray Moser's group.

Q. But do you recall anything about it?

A. I think it was, it was a part of a

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continuation or some ongoing process.

Q. Do you have any understanding of how the inventors that are named on each of the various patents was decided? Who would be named and who would not be named?

A. The patent counsels of the, at the particular times interviewed people, spoke to people, and worked through that chain.

Q. Were you involved in any of those conversations?

A. I was interviewed as part of those conversations.

Q. Did such an interview occur with respect to Kalokitis 3, which was the earliest provisional patent application?

A. Clement Berard, Clement Berard is the attorney that signed on this. And I remember meeting Clement, so, there was a good chance that there were discussions on that.

Q. You remember talking to Mr. Berard about inventorship?

A. I remember talking to Mr. Berard.

MR. DESAI: And Mr. Kalokitis, I just want to caution you. It is okay to talk

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about the facts surrounding your discussions. You should not get into the content of your discussions with counsel.

THE WITNESS: Okay. I am, I certainly spoke to Clement Berard. I likely talked to him about this application.

BY MR. GOETTLE:

Q. Okay. That is not my question. My question is, did you speak to Mr. Berard about the inventors, who should be listed as an inventor on here?

MR. DESAI: Same instruction Mr. Kalokitis, it is okay to talk about facts, you should not talk about content.

THE WITNESS: I don't recall.

BY MR. GOETTLE:

Q. You don't recall. How about for Kalokitis 4, which is the '470 provisional patent application.

A. I am sorry, Exhibit 4. Just give me a second here.

Q. And I guess I should --

A. I don't recall discussions about that. It was something that we, we did from time

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to time. But, I do not recall specifically having discussions on that.

Q. How about Kalokitis 5, which is provisional patent application that ends with 168.

A. I don't recall those discussions.

Q. Kalokitis 6, same question for Kalokitis 6, the '054 patent.

A. I don't recall those discussions. I, like I said, I believe we have had discussions. But, the content and all of that, I don't recall. I don't recall content.

Q. And, then, the three asserted patents all have the same inventorship on them. Do you recall any discussions of inventorship for the three asserted patents? And I can give you the third one if you would like.

A. The three asserted patents I, I believe I had discussions with counsel on those.

Q. About inventorship?

MR. DESAI: Mr. Kalokitis, same instruction. You can talk about the facts surrounding the circumstances of your discussions with your counsel.

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But if you can't answer the question without disclosing attorney/client privileged information you should not answer the question.

THE WITNESS: So, I, I can't speak about my conversations with my attorney.

BY MR. GOETTLE:

Q. You are going to follow counsel's instruction?

A. Yes.

Q. Was that conversation before the patent applications, related to the patents in suits were filed?

A. I don't recall.

Q. It could have been after?

MR. DESAI: Asked and answered.

THE WITNESS: I don't recall.

MR. DESAI: Objection.

BY MR. GOETTLE:

Q. You can't recall one way or the other?

A. I can't recall one way or the other.

Q. In Power Survey's brief to the court, when it moved for the preliminary

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injunction, it filed a memorandum brief with the court in support of the motion for the preliminary injunction. Are you familiar with that?

A. I would have to see the document you are referring to.

Q. Okay. And the only reason, I only want to ask you one concise point on one page. And because it is labeled confidential, I'm going to read it to you. If you really need to see it may be what I will do is pull the page out.

But I think that this statement contradicts what you told me earlier. I believe you told me earlier that the patent applications that you filed, the, in fact you can look at it if you want. But the first patent application, the provisional, Kalokitis 3, which was filed in 2004, disclosed the invention.

A. Disclosed which invention.

Q. Your invention that Power Survey has sued Narda and Premier over.

MR. DESAI: Objection, mischaracterizes testimony.

THE WITNESS: I have a number of

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patents and provisionals in front of me and I, I don't have a good sense of the exact tracking through these documents.

BY MR. GOETTLE:

Q. Can you pull out Kalokitis 3?

A. Right here.

Q. Okay. When was Kalokitis 3 filed?

A. December 23, 2004.

Q. And you wrote in your Declaration that this was implementing or describing, excuse me, describing your invention, right? You wrote it in your Declaration. Do you want me to point that out to you?

It is on Page 4, Paragraph 10.

A. Yes. This is the provisional application mentioned in Paragraph 10.

Q. Okay. In Power Survey's brief, they write, "Kalokitis led a team of engineers at Sarnoff, conceived a novel system for mobile stray voltage detection in late 2005, and built a prototype stray voltage detection system."

So, did you, did you understand what I just read?

A. I believe so.

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Q. So, that sentence says that you conceived a novel system for mobile voltage detection in late 2005. And I want to know if you agree with that statement?

MR. DESAI: I'm going to object to the extent it mischaracterizes the document. I don't know, because I don't have it in front of me.

MR. GOETTLE: I'll be happy to give you a copy.

MR. DESAI: And, just to be clear, it is marked confidential because it contains our confidential information not yours.

So there is really no reason he can't see it. Didn't --

MR. GOETTLE: I just didn't want it on the record and be, I'm fine, can I hand it to the witness? Any objection? And we won't mark it. Would that be all right?

MR. DESAI: Yes, that is fine, that is fine.

BY MR. GOETTLE:

Q. I should have asked earlier. So, I was just reading from, so, just so the record is

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clear I have just handed you a copy of the brief. We did not mark it because it is marked confidential.

I read from you, I read to you from Page 2.

A. I'm sorry.

Q. That is okay.

A. Page 2.

Q. I know I have thrown a lot of paper at you.

A. Okay.

Q. Page 2, the last full paragraph, last sentence of that paragraph.

A. Okay, I see the sentence.

Q. Okay. Is that statement correct?

A. There was an ongoing development, and a number of provisionals and patents that came out of it.

So, to, 2005, I don't think the characterization of late 2005 is necessarily accurate.

Q. I'm sorry, you don't think?

A. I don't know that that is necessarily accurate because there were, there

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were many innovations along the way. It was a progression of development that started around the time of Jody Lane's death and progressed through the end of, the end of '06, early '07.

So, there is a progression through this.

Q. I understand. But, so, do you think this statement is incorrect?

A. I don't think that statement embodies everything that went on.

Q. Do you agree that the statement is incorrect or you disagree?

A. I could make a statement that there were novel things invented in '04 and in '05 and in '06.

Q. When did you conceive a novel system for mobile stray detection?

A. In December, 2004, there are, there are mobile system descriptors in this, in this.

So, I believe 2006, 2004 is the first filing associated with that.

Q. So, that would have been when you conceived a novel system for mobile stray voltage detection?

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A. That would be when my team conceived a novel stray voltage detection system.

Q. Were you part of the conception?

A. Yes.

Q. While we are on it, just because you have the page in front of you.

A. Sure.

Q. Look up above. There is a reference to energized sections of sidewalks in the, under the first paragraph under the Heading B.

A. Which page, please?

Q. I'm sorry, Page 2.

A. Page 2. I'm sorry, so, say again.

Q. Under the heading, the first --

A. B?

Q. Yes, under B.

A. Okay. Yes.

Q. The second to the last sentence ends with "energized sections of sidewalks."

A. Okay. Such as energized sections of sidewalks. Is that the sentence you are referring to?

Q. Yes, sir. Are sidewalks conductive?

A. Yes.

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Q. The concrete is conductive?

A. Yes.

Q. No kidding. So, when I am walking down the street now and I am thinking about not walking over those metal doors that hide the stairs I actually should be thinking about not walking on the sidewalk at all?

A. Well, if you have a good set of rubber shows on you are okay.

Q. Okay.

A. Do you have a dog?

Q. Yes.

A. Do you like your dog?

Q. The kids like the dog.

A. Do you like your kids?

Q. Yes, I like the kids.

A. Yes, so make sure their dog is safe.

MR. GOETTLE: Okay. I have no further questions, thank you for your time.

EXAMINATION BY COUNSEL FOR PREMIER UTILITY SERVICE

BY MS. ZIBAS:

Q. I only have a few questions. I represent Premier in this lawsuit.

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And I'm just going to ask you a few follow up questions from your testimony today.

So what I will try to do is I will try to describe the area that we are talking about, because I know that we have gone through tremendous amount of material.

A. Okay.

Q. I'm going back to the point where we were talking about your presentations to legislators.

And, we talked about Connie Hughes is no longer with Power Survey. Do you recall that?

A. I recall that I, that, I, I give presentations to -- was your question about regulators.

Q. Regulators or legislators?

A. I gave presentations to regulators and legislators, yes.

Q. Now is it correct that you had indicated that Power Survey is no longer doing presentations to regulators and legislators; is that correct?

A. I'm not travelling to regulatory

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symposia and providing presentations anymore.

Q. Is Power Survey still presenting?

A. Presenting?

Q. To regulators and legislators?

A. Power Survey will, occasionally, submit a letter or something to those entities, but, not providing presentations.

Q. So, do you know if in 2013 up through March, 2014, if Power Survey gave any presentations to any state utility commissions or any other commissions?

A. I don't recall any specific presentations.

Q. Okay. All right. Now I'm going to go to the topic of RFPs now.

I know that you had testified that you only work on some of the RFPs, you are not familiar with all of them?

A. That's correct.

Q. I understand that, because sometimes they use your template, correct?

A. Correct.

Q. Are you, are you aware if, in any of the RFPs, if it was a requirement that a survey

Page 232

had to be conducted as part of the RFP process?

A. I'm not sure I understand the question.

Q. In any of the RFPs that were submitted by Power Survey, and let's just look at 2000 --

A. Throughout time.

Q. Well, look at 2013.

A. Okay.

Q. Was it ever a requirement that a survey be conducted?

A. A mobile test survey for contact and stray voltage?

Q. Yes.

A. Was it ever a requirement that that be done in our proposals.

Q. Correct.

A. So, you are asking did the RFP ask for a mobile stray voltage detection?

Q. Or, if they called it a mobile field assessment, or a pilot program, whatever they happen to call it?

A. Yes, RFPs, we have received RFPs that asked for a mobile stray or contact voltage

Page 233

detection program.

Q. And did Power Survey participate in the, in those surveys for mobile field assessment as part of the RFP in 2013?

A. So, we call our work out in the field when we go looking for stray voltage a survey.

Q. Uh-huh.

A. Are you asking, have we written proposals to do our work, which is mobile detecting?

Q. No. Were you required as part of your bid, because you said that when you responded to the RFP, that you have to put in the bid. As part of your bid, did Power Survey participate in any mobile field assessments?

A. Were we required to participate in mobile field assessments as part of a bid.

We were not required to do, to scan utility's territories as part of a bid requirement.

Q. Do you know if Power Survey failed to show up for a side-by-side survey with Premier in 2013 as part of a bid?

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MR. DESAI: Objection, lack of foundation. You can answer.

THE WITNESS: I know that Power Survey rejected the prospect of participating in a ill-defined test by one of the customers.

BY MS. ZIBAS:

Q. Do you remember which customer that was?

A. Rhode Island.

Q. Was it Rochester?

A. Rhode Island.

Q. What about Rochester Gas and Electric?

A. Rochester Gas and Electric had a number of RFPs come our way, and the requirements varied depending upon what particular moment you got one.

Q. Now, you had said that Power Survey rejected it because the test was ill-defined. What do you mean by ill-defined?

A. The notion of a test was mentioned, and we requested that we get a test plan, and to understand the criteria for acceptance, and the scientific basis for the methods. And we were

Page 235

not given those materials.

Q. Have you, has Power Survey ever participated in a bid where you did have a well-defined test that you were, and you participated?

A. No.

Q. And was Power Survey successful in receiving the bid when they didn't participate in the survey?

A. You know, I don't know the final details of all of the bid packages. I, as I said before, if I get a piece over here and the rest of it.

Q. Who usually handles the bid packages at Power Survey?

A. Tom Catanese.

Q. Okay. Now, if you would look at the Declaration which has been marked as Kalokitis 1.

A. Yes.

Q. And turn to Page 6, Paragraph 18.

A. Yes.

Q. Looking towards the bottom of that Paragraph 18, the sentence that says, "Mr. Voightsberger's PQT system, however, had the

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EFA 300 sensor in the truck bed which was ineffective and inaccurate because of interference from the truck's metal."

Can you provide to me the basis of your statement that it is ineffective and inaccurate?

A. My technical expertise.

Q. So, what's the technical, besides in general, your technical expertise, did you actually perform a test? Did you examine the product? What did you do to conclude ineffective and inaccurate?

A. I reviewed the photograph, and my understanding of the operation of electric field sensors, coupled with that, indicates to me that that would be an ineffective and inaccurate method for sensing stray and contact voltage.

Q. And, why do you believe that?

A. The fundamental operation of a electric field sensor relies on a gradient and electric field. Associating the bed of the truck and the metal therein has a deleterious effect on the field that may be sensed at that position.

Q. Have you ever examined the EFA 300

Page 237

sensor? Physically examined it?

A. Yes.

Q. Now, if you could look at Paragraph 20, on that same Page 6 in your Declaration.

A. Yes.

Q. You say, "Mr. Voightsberger eventually started working for Premier Utility Service where he again took up marketing and developing a mobile stray voltage testing system."

Do you know when Mr. Voightsberger started working for Premier?

A. I do not.

Q. Do you have a general idea if it was one year ago or two years ago?

A. I have a sense that it might be longer than that. But, I don't know the specifics.

Q. What is your sense of when he started with Premier?

A. Maybe the 2011 to 2012 time frame, to 2000 -- I'm thinking somewhere between '10 and '12, but, I don't know the specifics.

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Q. And in that same paragraph in that sentence I read, you indicate that Mr. Voightsberger was developing a mobile stray voltage testing system.

What was your basis that he was developing a mobile stray voltage testing system?

A. I believe there is a letter somewhere where he described his activities. I believe it is somewhere in here.

Q. So, the basis, is some document that is attached to your Declaration, correct? But no first-hand knowledge?

A. Of what he was doing, I only have, I have seen letters, you know, a number of letters that he has written.

Some of them are here, I don't know if all of them are here. But that is my sense of where he has documented his activities.

Q. And what type of mobile stray voltage testing system do you believe that he has developed? Is it the Narda system or something else?

A. I think you would have to ask Mr. Voightsberger what he has invented or built

Page 239

or designed.

Q. All right. So, when you put this in this Declaration you were just relying on some e-mails or something that you read, correct?

A. Things he has written.

Q. Okay. And, the second sentence in Paragraph 20 refers to a letter that was sent to Willbros about Mr. Voightsberger's activities and how they affect Power Survey's patent protection.

Can you describe to me what the activities are that protected Power Survey's patent protection.

A. Let me find the exhibits that is listed here.

Q. Yes, it refers to Exhibit G.

A. Yes, okay, this is G, okay. So, okay, now I see the reference.

Please ask the question again.

Q. In your Declaration you indicate that a letter was sent by, Power Survey sent a letter to Willbros about Mr. Voightsberger's activities and how they affect Power Survey's patent protection.

So I understand that it refers to

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this letter. But what are the activities?

A. Mr. Voightsberger was marketing stray voltage detection services for the company.

Q. And when you refer to Power Survey's patent protection, are you referring to the patents in suit, or just the patents and the applications that are listed in the letter in Exhibit G?

MR. DESAI: Objection, form, lacks foundation.

THE WITNESS: I didn't write the letter. Ray Moser wrote the letter. And I relied on his expertise as an attorney to cover my needs.

BY MS. ZIBAS:

Q. Do you see any of the patents that are in suit in the letter listed, attached to Exhibit G, or marked as Exhibit G to your Declaration?

A. Do I see the patents in suit.

Q. Yes, are the patents in suit in this lawsuit, are any of them listed in this letter, dated June 4th, 2012, to Peter Arbour at Willbros.

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A. So the only patents I see are the '081, the '642 and the '054 in this suit, I'm sorry, in this letter.

Q. Okay.

A. I don't see anything, I don't see those three as being asserted in this suit.

Q. In the letter?

A. I'm sorry, in the letter.

Q. Okay. I have no further questions.

A. Okay.

THE VIDEOGRAPHER: The time now is 4:39, and this deposition has concluded.

(Whereupon, signature not having been waived, the deposition concluded at 4:39 p.m.)

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ACKNOWLEDGMENT OF DEPONENT

I,____________________, do hereby certify that I have read the foregoing pages, and that the same is a correct transcription of the answers given by me to the questions therein propounded, except for the corrections or changes in form or substance, if any, noted in the attached Errata Sheet.

____
DAVID KALOKITIS DATE

Subscribed and sworn
to before me this
_____ day of ______________, 20____.
My commission expires:______________

____
Notary Public

CERTIFICATE OF COURT REPORTER

UNITED STATES OF AMERICA)
DISTRICT OF COLUMBIA)

I, LORI J. GOODIN, the reporter before whom the foregoing deposition was taken, do hereby certify that the witness whose testimony appears in the foregoing deposition was sworn by me; that the testimony of said witness was taken by me in machine shorthand and thereafter transcribed by computer-aided transcription; that said deposition is a true record of the testimony given by said witness; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this deposition was taken; and, further, that I am not a relative or employee of any attorney or counsel employed by the parties hereto, or financially or otherwise interested in the outcome of this action.

____
LORI J. GOODIN
Notary Public in and for the
District of Columbia
My Commission expires May 14, 2016

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